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MANUAL OF SCHOOL LAWS

FOR THE USE OF SCHOOL TEACHERS AND OFFICERS IN THE STATE OF VERMONT

BY

W. H. TAYLOR, B. S.

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Late Principal of Hardwick Academy

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PREFACE.

A few words of explanation are in order before introducing the reader to the study of school law. The object of this volume, as set forth in its title, is readily understood. During my experience in school work, perplexing questions have often arisen which necessitated legal advice. Believing this to be the uniform experience of school teachers and officers, I have been led to attempt the task of compiling the school law of the State in such a form as to render it easily comprehended by all.

The revision of the school law at the last session of our legislature marks a new era in school affairs. Realizing that greater confusion than ever was liable to follow this change, the demand for such a Manual seemed doubly imperative.

For convenience of reference the book is arranged in two parts. Part I. contains a complete reprint of the school law. Part II. is based largely upon the decisions of the courts, and is explained in the introduction. In the arrangement of this part of the book, it has been my aim to follow, as nearly as possible, a

logical order. The first four and ninth chapters will especially interest school officers. Chapters V., VI., VII. and VIII. relate to matters pertaining more particularly to school teachers. However, a thorough knowledge of the whole book will be found advantageous to both officers and teachers. In order to preserve the simplicity of the book, the substance only of many decisions is given here. Reference to the book where the entire decision may be found is always given, and will prove of value when a more minute investigation is necessary.

The work has been done with a great deal of care, and I trust that it will be correspondingly free from errors. From a literary point of view no claim to excellence is made. If the book proves a help to teachers and officers in the management of the schools, its mission will be performed.

I am under obligation to my many friends who have aided and encouraged me in the work, and especially to MR. STAFFORD, of the law firm of IDE & STAFFORD, who reviewed the manuscript. Trusting for the little volume a charitable reception by its readers, it is submitted with the good wishes of a fellow-worker.

THE AUTHOR.

Hardwick, May 21, 1889.

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age and for freight and express charges necessarily made in connection with his official duties, shall be allowed him in the settlement of his account.

SEC. 5. The Superintendent of Education shall hold a teachers' institute in each county during each biennial term, and may hold additional institutes if in his judgment advisable; but not more than two institutes shall be held in any county during a biennial term. An institute shall not continue more than four days.

SEC. 6. If the Superintendent of Education is unable to be present at a teachers' institute, he may direct the Supervisor of Schools of any county to conduct such institute; and he may at any time require the Supervisor of one county to assist in the institute of another county.

SEC. 7. In every teachers' institute especial attention shall be given to the training of teachers in methods of instruction; and the Superintendent of Education may employ persons specially skilled in such work to aid in an institute when he deems it advisable so to do.

SEC. 8. The entire expense of a teachers' institute shall not exceed thirty dollars for each day such institute is in session, and the same shall be paid by the Superintendent of Education, and be received by him from the State.

SEC. 9. The Superintendent of Education shall, on occasions other than the holding of

institutes, visit each county annually, and as many towns in each county as practicable, deliver lectures upon educational subjects, confer with and advise school officers and teachers, and investigate the condition of schools.

SEC. 10. The Superintendent of Education shall present to the General Assembly, on the first day of each biennial session, a report for the preceding two years, which shall contain an account of his official doings, a statement of the condition of the schools and the expenditure of the school money, and such suggestions for the improvement of schools as he deems proper.

SEC. 11. Not more than four thousand copies of such report shall be printed. Each Supervisor of the Schools shall receive twenty copies. Members of the General Assembly, Town Clerks, District Clerks, and Principals of graded, union and high schools shall each receive one copy. The Superintendent of Education shall make such distribution and shall send the copies, except those for Supervisors of Schools and Members of the General Assembly, to the Town Clerks, who shall deliver them to the persons entitled thereto.

SEC. 12. The Superintendent of Education shall, at the end of every three months, file with the Auditor an itemized account of his expenses verified by his oath; and as soon as the same can be examined, he shall receive an

order on the Treasurer for the amount found due him on such account, and for one-fourth of his annual salary.

CHAPTER II.

SUPERVISOR OF SCHOOLS.

SEC. 13. Every town at its annual town meeting shall elect one person, a resident of such town, to be a member of a County Board of Education, and the persons so elected shall hold their offices for one year, and shall constitute a Board of Education for that county.

SEC. 14. They shall meet at the shire town of their counties, except the county of Bennington, in which county such meeting shall be held in the town of Arlington, on the first Tuesday of May following their election, and shall organize by the choice from their number of a President and Secretary.

SEC. 15. These Boards of Education shall have cognizance of all matters pertaining to education in their respective counties; shall collect and report such statistics and other information relative to the schools in their counties, as the Superintendent of Education may require of them. They shall, with the supervisor of their counties, constitute a Board for the selection of text books in the branches prescribed by law, to be used in the schools of such county. They shall also individually act

as Truant Officers for their respective towns. They shall on the first Tuesday of May next, and on the first Tuesday of May of every second year thereafter, elect for their respective counties a Supervisor of Schools, whose term of office shall commence the first day of July following and continue for two years. A vacancy in the office of Supervisor shall be filled by the board.

SEC. 16. They shall be entitled to receive in payment for their services three dollars per day for the time actually spent in the discharge of their duties.

SEC. 17. A supervisor of schools shall, during his term of office, reside in the county for which he is appointed. A supervisor shall not be eligible to a school district office.

SEC. 18. The annual salaries of the Supervisors of Schools for the several counties shall be as follows:—Grand Isle, two hundred dollars; Essex, five hundred dollars; Lamoille, eight hundred dollars; other counties, twelve hundred dollars each.

SEC. 19. A Supervisor of Schools shall be allowed his necessary expenses when traveling on official business to an amount not exceeding one-fourth of his annual salary, and his necessary expenditures for postage and stationery for official use.

SEC. 20. The Supervisors of the counties of Rutland and Windsor may each appoint an

Assistant Supervisor, and may revoke such appointment at pleasure. An Assistant Supervisor shall visit such schools as may be designated by the Supervisor, discharge the duties prescribed by law in connection with the visitation of schools, and report to the Supervisor. No other duties of a Supervisor shall be performed by his assistant.

SEC. 21. An Assistant Supervisor shall receive four dollars for each day actually spent in official duties, and his necessary cash expenses; but such compensation and expenses shall not together exceed four hundred dollars in any year. The same shall be paid by the Supervisor, and be repaid him as a part of his expenses.

SEC. 22. A Supervisor of Schools whose salary is twelve hundred dollars, shall devote his whole time to the duties of his office; and a Supervisor whose salary is less than twelve hundred dollars, shall fully perform the duties required of him by law, devoting to such duties at least an amount of time which shall bear such proportion to the whole time as his salary bears to twelve hundred dollars.

SEC. 23. A Supervisor of Schools shall have the immediate supervision of the public schools of the county, and may, subject to the approval of the Superintendent of Education, adopt measures necessary for their examination, regulation and improvement.

SEC. 24. He shall visit such schools as often as practicable, note the methods of instruction and government, inform himself of the progress of the pupils, and give such advice to the teachers as may be needed.

SEC. 25. He shall, when visiting a school, observe the condition of the schoolhouse, outbuildings and grounds, see if the school is properly supplied with maps and apparatus, and ascertain if all the pupils are provided with necessary text books.

SEC. 26. When the Selectmen of a town represent to the Supervisor that a school in such town is not properly taught or governed, or when the Prudential Committee of a school district or any three voters resident therein, make such representation concerning the school of his district, the Supervisor shall forthwith visit and examine such school, make such further investigation as he deems necessary, and take such action as the case may require.

SEC. 27. The Supervisor of Schools shall learn if the requirements of the law are complied with by school district officers, and shall, as occasion may require, confer with and advise any officer of a district concerning his official duties, or any matter affecting the interests of the district or its school.

SEC. 28. When a matter arises in connection with the public schools concerning which a teacher or any officer of a school district de-

sires the advice of the Supervisor of Schools, or his construction of a provision of the school law, such teacher or officer may mail to the Supervisor a request for such advice or opinion; and the Supervisor shall, as soon as may be, reply thereto, giving his advice or opinion in the matter presented.

SEC. 29. A Supervisor of Schools shall at all times avail himself of such measures as he may deem judicious to increase the public interest in education, and to that end may hold public meetings for the discussion of questions pertaining to the public schools.

SEC. 30. He shall encourage the formation of Teachers Associations, or, when a regular organization is not practicable, the informal gathering of the teachers of any locality for mutual improvement.

SEC. 31. When ten teachers will meet for two sessions upon the Saturday of any week when the schools are in session, or for two days during a vacation, except in the months of July and August, and desire the presence and instruction of the Supervisor at such meeting, the Supervisor shall, if the other duties of his office permit, meet with and instruct such teachers.

SEC. 32. When in his judgment advisable, he may require all or any number of the teachers of a town to meet him at a convenient point in such town upon the Saturday of any week

when their schools are in session, to receive instruction in school work and methods.

SEC. 33. He may after notice, and a hearing if desired, revoke the county certificate, or annul for his county the Normal School certificate of any teacher who, having been duly notified, shall without sufficient excuse fail to attend such meeting; such action to take effect at the close of the term then being taught by such teacher.

SEC. 34. Every teacher shall, on or before the first day of his school, mail to the Supervisor information as to what school he is to teach, his postoffice address while teaching, and the time for which he is engaged, and shall renew such information as often thereafter as any change may be made.

SEC. 35. A Supervisor of Schools shall, under the direction of the Superintendent of Education, make all necessary arrangements for the holding of a teachers' institute in his county, and shall take measures to secure the attendance of the teachers of the county, and shall be present at and assist in the work of such institute.

SEC. 36. When a school is not sufficiently supplied with maps or apparatus, or a schoolhouse is in need of repair or furnishing, the Supervisor of Schools shall send to the Prudential Committee a report of such deficiency or want of repair, with his recommendations in

the matter; and the Committee shall supply such deficiency or effect such repairs, or shall present such report to the district at its next meeting.

SEC. 37. When, in the opinion of the Supervisor, the interests of education would be promoted by an alteration in the school districts of any town, he shall send to the Selectmen of such town, in the first week in February, a report containing his recommendations in the matter, which shall be printed with the town report in a town which has its report printed, or, when such report is not printed, be presented to the town at its annual meeting.

SEC. 38. A Supervisor of Schools shall, in the month of July next preceding each biennial session of the General Assembly, previous to the twentieth day of such month, send to the Superintendent of Education a report of his work as Supervisor, and of the progress, condition, and needs of the schools in his county, with such suggestions as he may desire to make.

SEC. 39. A Supervisor of Schools shall, at the end of every three months, file with the Auditor an itemized account of his expenses, verified by his oath; and as soon as the same can be examined, he shall receive an order on the Treasurer for the amount found due him on such account, and for one-fourth of his annual salary.

CHAPTER III.

TEACHERS' CERTIFICATES.

SEC. 40. No person shall teach a public school without having a certificate of qualification, and a contract for teaching shall be void if the teacher does not obtain such certificate before opening school; but the above provisions shall not apply to the principal teacher of the highest department of a graded school.

SEC. 41. A certificate of graduation from the lower course of a Normal School in this State, shall be a license to teach in the public schools of the State for five years from the date thereof; and a certificate of graduation from the higher course of such Normal School shall be a license to teach in the public schools of the State for ten years from the date thereof.

SEC. 42. A graduate from the lower course of the Normal School, at the fifth annual examination after his graduation, on presenting to the examining board of such school satisfactory evidence that he has taught successfully in the public schools of the State one hundred weeks since his graduation, may be admitted to an examination in the higher course of study in said school, and on passing a satisfactory examination therein, shall receive a certificate thereof from the Board of Trustees of said school, which shall be a license to teach for ten years in the public schools of the State.

SEC. 43. A graduate of such Normal School holding a ten years' certificate, who has taught two hundred weeks under such certificate, may, at the expiration thereof, be granted by the concurrent action of the Superintendent of Education and the Supervisor of Schools of the county where such person last taught, without examination, a certificate authorizing such person to teach in the public schools of the State until such certificate is revoked by like concurrent action.

SEC. 44. A Supervisor of Schools may grant to graduates from the highest course of a Normal School in another State, certificates of qualification, which shall in his own county confer the same authority to teach, and be subject to the same provisions, as certificates of graduation from the same course of a Normal School of this State.

SEC. 45. Persons not holding certificates valid throughout the State shall obtain certificates from the Supervisor of Schools of the county where such persons are to teach, which certificates shall be valid throughout such county; and a Supervisor shall not, except as elsewhere provided, issue a certificate without a public examination of the applicant in all the branches required by law to be taught in the common schools.

SEC. 46. Public examinations of applicants for teachers' certificates shall be held in

each county, commencing on the third Tuesday in March, on the third and fourth Tuesdays in July, and on the third Tuesday in November, in each year, at convenient places to be designated by the Supervisor of Schools, notice of which examinations shall be published in all the newspapers of the county at least two weeks prior thereto.

SEC. 47. Such examinations shall be both written and oral, and shall be conducted by the Supervisor of Schools; but if a Supervisor is prevented by sickness from attending an examination, he may designate some person to conduct such examination, and may afterward grant certificates upon the examination papers and the report of the person who conducted the examination.

SEC. 48. If a Supervisor of Schools is unable to make the designation, or seasonably issue the certificates, provided for in the preceding section, such designation may be made and such certificates issued by the Superintendent of Education with the same effect as if done by said Supervisor.

SEC. 49. The Superintendent of Education shall prepare for each public examination questions to be used in the written examination, which shall be the same in all counties; and he shall transmit the same to the Supervisors in sealed packages, which shall be opened by the Supervisors in the presence of the appli-

cants at the commencement of the examination.

SEC. 50. The Superintendent of Education shall fix the standard of correctness which shall be reached in written examination to entitle the applicant to a certificate; and all examination papers shall be preserved in the office of the Supervisor for at least one year, and be subject to the inspection of the Superintendent of Education.

SEC. 51. A person who reaches the required standard in the written examination, and passes an oral examination to the satisfaction of the Supervisor, and gives such evidence of good moral character and of ability to govern as the Supervisor may require, shall receive a certificate of qualification of the grade to which he may be entitled; but no certificate shall be granted to a person not seventeen years of age.

SEC. 52. A Supervisor of Schools may issue certificates of three grades, which shall be granted under the restrictions applicable to each as hereinafter provided.

SEC. 53. A certificate of the first grade shall be granted only to one who has taught successfully forty weeks, and shall be a license to teach for five years from its date. Such certificate may be based in part upon an examination in such higher branches of English study as may be designated by the Superintendent of Education, and such certificate may be renewed at the discretion of the County Supervisor, for

the period of five years, provided the holder thereof shall have taught one hundred weeks in the public schools of the State during the five years preceding the renewal of such certificate.

SEC. 54. A certificate of the second grade shall be granted only to one who has taught successfully twelve weeks, and shall be a license to teach for two years from its date. No examination except in the branches required by law to be taught in the common schools shall be required to entitle a person to a certificate of the second or third grade.

SEC. 55. A certificate of the third grade shall be a license to teach for a specified time, not exceeding one year, and may, in the discretion of the Supervisor, be limited to the teaching of a particular school. A person who has twice taken a certificate of the third grade, and who has taught at least twelve weeks, shall not afterward be given a certificate of that grade.

SEC. 56. A Supervisor may also issue a special certificate, upon private examination, which shall be good until the next public examination, to a person who was unavoidably prevented by sickness or other misfortune from attending a public examination; or to a person employed by a district which, in consequence of some unforeseen event and without fault on its part, is without a licensed teacher to commence its school. But before granting such

certificate, the Supervisor shall be fully satisfied of the existence of the grounds upon which the application is made.

SEC. 57. A graduate of any college whose course of study is approved by the Superintendent of Education, who has taught in the public schools of the State twenty-four weeks, may receive from the Supervisor of Schools of the county where such person last taught, without examination, a certificate of the first grade, if, in the judgment of the Supervisor, such person has fully proved his ability to instruct and govern.

SEC. 58. A certificate of the first grade issued by the Supervisor of one county may, upon application in person by the holder thereof, without an examination, be made valid in another county by an indorsement thereon to that effect by the Supervisor of such other county; and the certificate so indorsed shall, for the remainder of its term, have the same effect in such other county as if originally issued in such county.

SEC. 59. A person who has held Supervisors' certificates of the first grade for ten successive years, and has during that time taught two hundred weeks in the public schools of the State, may at the end of such time be granted the certificate provided for in section forty-three in the same manner and with the same effect.

SEC. 60. A teacher holding a State certificate shall notify the Supervisor of the county in which he is to teach before commencing his school that he holds such certificate, and shall submit the same to the inspection of the Supervisor on request.

SEC. 61. A Supervisor of Schools may revoke the county certificate, or annul for his county the Normal School certificate, of a teacher whom he finds to be incompetent to teach or govern his school, or to be setting an evil example before it; and on so annulling a Normal School certificate he shall report the matter to the Board of Trustees of such school for their further action.

SEC. 62. The revocation or annulment of a certificate shall be in writing, and a copy thereof shall be given to the Prudential Committee and to the teacher; and from the time of the delivery of such copies, or from the time such action is to take effect, in cases arising under section thirty-three of this act, the contract between the district and such teacher shall be void.

SEC. 63. The Supervisor of Schools shall keep a complete record of the name, age and residence of each person licensed by him, and of the date and grade of each certificate issued, and of each instrument revoking or annulling a certificate.

SEC. 64. All certificates in force at the time of the passage of this act shall be valid until

their expiration, unless revoked or annulled as provided by law.

SEC. 65. The Superintendent of Education shall procure the printing of the questions prepared for written examinations, and the cost of such printing shall be allowed as a part of his expenses. The advertising and other necessary expenses of a public examination of teachers shall be paid by the Supervisor, and be repaid him upon the settlement of his account.

CHAPTER IV.

SCHOOL DISTRICTS. I. ORGANIZATION.

SEC. 66. When the inhabitants of a town cannot be conveniently accommodated in one school district, such town shall, at a meeting warned for that purpose, divide the town into several districts, and determine their limits.

SEC. 67. Adjoining towns may, by concurrent votes, form a school district comprising parts of such towns. A district so formed shall be called a fractional district and shall be held to belong to the town and county in which the schoolhouse is located. If the schoolhouse is located upon the dividing line between towns, such district shall be held to belong to the town having a plurality of the children of school age in the district, and to the county in which such town is situated.

SEC. 68. A town shall number its school districts, and the districts shall be designated by their respective numbers; and the numbers and descriptions of said districts, and alterations afterward made in their limits, shall be recorded in the office of the Town Clerk.

SEC. 69. When it is necessary to organize a school district, three voters of the proposed district may apply in writing to the Selectmen of the town in which such district is located, or if the district contains parts of two or more towns, to the Selectmen of either town; and the Selectmen shall call a meeting in such district by posting up a notice thereof, specifying the time, place and business of the meeting, in two of the most public places in such district, at least seven days before the time therein specified. One of the Selectmen shall preside in the meeting until a Moderator and Clerk are chosen, when the district shall be held to be organized.

SEC. 70. The Selectmen of a town, on the application of three voters in an adjoining unorganized town or gore, may divide such town or gore into as many school districts as may be needed, and number such districts, and organize them in the manner provided in the preceding section. The Selectmen acting under this section shall cause their proceedings to be recorded in the office of the Clerk of the county in which such town or gore is situated,

and receive reasonable compensation from the petitioners.

SEC. 71. A school district, legally organized, shall be a body politic and corporate, with the powers of a corporation for maintaining schools in such district, and by its corporate name may sue and be sued, and may take, hold and convey real and personal estate.

SEC. 72. A town, by vote in town meeting, may set persons residing in town to a school district in an adjoining town or gore, if such district, by vote, consents to receive them; and persons so set to a school district shall have the same rights and be subject to the same liabilities as the other inhabitants of the district, and as to district taxation shall be treated as belonging to such district.

II. OFFICERS.

SEC. 73. A school district, shall, at its organization, and at each annual meeting thereafter, elect from among the legal voters of such district a Moderator, Clerk, Collector, Treasurer, one or three Auditors, and a Prudential Committee of one person unless the district shall vote to have the Prudential Committee of three, provided for in the succeeding section. The term of office of such officers shall commence at the time of their election and continue until their successors are chosen, but if the Prudential Committee is absent more than

three months from the district, his office shall be deemed vacant.

SEC. 74. A school district may, at its organization, or at its annual meeting, elect a Prudential Committee of three persons, one of whom shall be chosen for one year, one for two years, and one for three years; and until such district shall vote to discontinue such Committee of three such district shall, upon the expiration of the term of office of a member of such Committee, elect a successor for three years, and may at any meeting fill a vacancy occurring in said Committee.

SEC. 75. If such a Committee is elected at the organization of the district, and such organization is not at the time fixed for an annual meeting, the time between the organization and the next annual meeting shall be accounted the first year of said terms.

SEC. 76. When a district has voted to discontinue such Committee of three, it shall not elect successors to the members as their terms expire, and the remaining members or member of such committee shall be the committee of the district until the expiration of the term which is last to expire.

SEC. 77. A school district may elect the Collector of town taxes, although not an inhabitant of the district, to be Collector of such district, if he will accept the office in writing;

and such acceptance shall be recorded by the District Clerk.

SEC. 78. The Moderator shall preside at school district meetings. In case of his absence from a meeting a Moderator *pro tempore* may be chosen to preside at such meeting.

SEC. 79. The Clerk shall keep a record of the votes and proceedings of school district meetings, and give certified copies thereof when required; and for a wilful neglect of such duty he shall forfeit twenty dollars to the district, to be recovered in an action on this statute.

SEC. 80. The Clerk shall, within ten days after his election or appointment, give notice thereof, and of the number of his district, to the Town Clerk; and if he fail to do so he shall receive no compensation for making returns to the Town Clerk's office.

SEC. 81. The duties of school district Collectors, Treasurers and Auditors, shall be like those of Town Collectors, Town Treasurers and Town Auditors. A district Collector or Treasurer shall, before entering upon his duties, if required by vote of the district or by the Prudential Committee, give bonds to the district for the faithful discharge of his duties, in such sum as may be required; and if a Collector or Treasurer neglects for ten days to give bonds as required, such office shall be vacant.

SEC. 82. The Prudential Committee shall have the care of the schoolhouse and grounds,

and shall keep the same in good order, and if there is no schoolhouse, shall provide a suitable place for the school; and he shall see that fuel, furniture, and all things necessary for the school are provided.

SEC. 83. The Prudential Committee shall employ a teacher to instruct the school, and may remove him when necessary, and he shall adopt requisite measures, not in conflict with those of the Supervisor of Schools, for the inspection, examination, regulation and improvement of the school.

SEC. 84. The Prudential Committee of a district which has not by vote restricted the action of its committee in the matter, may permit the free use of the schoolhouse for religious meetings, lectures, music schools, kindergarten schools, and like purposes, when such use will not interfere with the schools or meetings of the district.

SEC. 85. In the absence or disability of the Clerk, the Prudential Committee shall discharge the duties of the Clerk, and shall be under the same penalties for a failure therein.

SEC. 86. The Prudential Committee shall draw orders upon the Treasurer for all sums due from the district; but a Prudential Committee shall not authorize the payment of the moneys of the district to a teacher employed therein who did not obtain a certificate as

required by law, or to a teacher whose certificate has been revoked or annulled.

SEC. 87. If a Prudential Committee shall authorize a payment prohibited in the preceding section, such Committee shall be liable to the district for the moneys so paid, to be recovered in an action on this statute; and the Town Agent shall prosecute such action at the expense and in the name of such district.

SEC. 88. When a vacancy occurs in the office of Clerk, Collector, or Treasurer of a school district, or in the office of Prudential Committee in a district whose committee consists of one person, the Selectmen of the town shall fill such vacancy until a new election is made by the appointment of a legal voter of such district, and the district at a special meeting may make a new election.

III. MEETINGS.

SEC. 89. The annual school meeting shall be held in each district on the last Tuesday in June; and special meetings shall be warned whenever applied for in writing by three voters of the district.

SEC. 90. School meetings shall be warned by the Clerk, or, in case of his absence or neglect, by one of the Prudential Committee, by posting up, in two of the most public places in the district, at least seven days before the time of the meeting, notices stating the time and

place of meeting and the business to be transacted or considered.

SEC. 91. Persons residing in a school district and qualified to vote in town meeting, shall be voters in school district meetings and if a person offering to vote is challenged, the Moderator at such meeting, the Clerk, and the members of the Prudential Committee present, shall decide as to his right to vote.

SEC. 92. Women shall have the same right as men to vote in school district meetings, and in the election of school officers in towns and cities; and the same right to hold offices relating to school affairs, except in cases where it may be otherwise provided.

SEC. 93. The word "meeting" as applied to school district meetings when used in this act, shall mean a school district meeting, warned as above provided; and any authority given a district in this act to take any action "by vote" or "by a two-thirds vote," shall mean by vote, or by a two-thirds vote, in such a meeting.

SEC. 94. If a person whose duty it is to warn a school district meeting, neglects to do so for ten days after application made as provided by law, he shall forfeit to said district twenty dollars for each ten days' neglect, to be recovered in an action on this statute.

CHAPTER V.

MAINTENANCE OF SCHOOLS.—I. SCHOOLS AND INSTRUCTION.

SEC. 95. All pupils shall be thoroughly instructed in good behavior, reading, writing, spelling, English grammar, geography, arithmetic, free-hand drawing, the history and constitution of the United States, and in elementary physiology and hygiene, giving special prominence to the nature of alcoholic drinks and narcotics, and their effect upon the human system; and shall receive special instruction in the geography, history, constitution and principles of the government of Vermont.

SEC. 96. The Prudential Committee of any district may, if it seem desirable, provide for daily instruction in vocal music by the regular teacher; and any district may, at any regular meeting, instruct its committee to provide for such instruction in vocal music by a teacher employed for that purpose, as it may deem advisable.

SEC. 97. One or more schools shall be maintained in each town for the free instruction of all persons of school age residing in such town, in the studies prescribed by law.

SEC. 98. After the division of a town into school districts, a school shall be maintained in each district for the free instruction of its legal

pupils in the studies prescribed by law, except when provision is made for their receiving such instruction elsewhere, as hereinafter provided.

SEC. 99. If the pupils of a district are so numerous as to require more than one teacher, the district may by vote provide for as many schools, or a school of as many departments, as may be needed.

SEC. 100. In a district having more than one school, or a school of more than one department, the Prudential Committee may provide for the free instruction of advanced pupils in the higher branches of English study.

SEC. 101. A district which has made provision for the regular maintenance of schools to be taught by three or more teachers, may by vote direct the teaching of ancient and foreign languages in one or more of such schools.

SEC. 102. A school maintained by a town or district not less than thirty weeks each year, and consisting of three or more departments, taught by four or more teachers, having an established course of study, and having all the departments under the control of one principal teacher, shall be a graded school.

SEC. 103. When a district has more than one school, or a school of more than one department, the Prudential Committee, or a committee chosen by such district for the purpose, shall examine as to the qualifications of the pupils,

and designate the school or department which each pupil shall attend.

SEC. 104. A district maintaining schools taught by twelve or more teachers, may by vote direct its Prudential Committee to employ a person for the special supervision of such schools; and a person so employed shall, under the general direction of the Prudential Committee and subject to the control of the Supervisor of Schools, superintend the work of the teachers, and perform the duties of the Prudential Committee in the inspection, examination and regulation of schools.

II. INSTRUCTION PROCURED BY DISTRICT IN OTHER SCHOOLS.

SEC. 105. A district may, under an appropriate article in the warning, by a two-thirds vote, authorize its Prudential Committee to arrange for the instruction of all its legal pupils, in the studies prescribed by law, in the schools of an adjoining district or districts, or in the most convenient schools of an adjoining town or towns in another State, and may authorize the transportation of such pupils to and from school.

SEC. 106. A Prudential Committee may, for a reasonable compensation to be paid into the treasury of the district, admit to the school under his charge, the pupils of an adjoining

district, by arrangement with the Prudential Committee of such district.

SEC. 107. If such pupils are provided with not less than twenty-four weeks of instruction within the school year, including such as may have been had in the district of their residence, such district shall be held to have supported a school as required by law, and shall be entitled to its share of the public moneys the same as if a school had been maintained in the district, and the attendance had been in such school.

SEC. 108. A district in a town in which an academy is located may by vote direct its Prudential Committee to arrange with the officers of such academy for the instruction in such academy of all or a part of the legal pupils of said district in the studies prescribed by law; and if such district continues to maintain a school, it may provide for the instruction of its pupils sent to the academy in the higher branches of English study; and if such district continues to maintain schools taught by three or more teachers, it may provide for the instruction of its pupils sent to the academy in ancient and foreign languages.

SEC. 109. When an arrangement with an academy is such that no school is kept in the district, if all the legal pupils of the district are provided with not less than twenty-four weeks of instruction in the school year, including any that may have been had in the district

before the discontinuance of its school, the district shall be held to have supported a school as required by law, and shall be entitled to its share of the public moneys; and the attendance at an academy of any pupil under an arrangement of the Prudential Committee as above provided, shall, in the division of public moneys, be treated as an attendance in the school of said district.

SEC. 110. A contract for the instruction of the pupils of a district out of the State or in an academy, shall provide for the keeping and return to the Clerk of such district of the attendance of such pupils, in such manner as the keeping and return of attendance is required by law in the school districts of this State; and if such provision of the contract is not complied with, all right to compensation for the instruction of such pupils shall be forfeited.

SEC. 111. A contract made by a district for the instruction of its pupils under the above provisions, shall not be for a longer period than two years from the commencement of the term next following the making of such contract, and may at any time be modified by legislation; and nothing in such provision or contract shall be held to relieve a district from its obligation to provide for the instruction of all its legal pupils in the studies prescribed by law for the full time required.

III. INSTRUCTION WHEN DISTRICT FAILS TO PROVIDE IT.

SEC. 112. The instruction of the legal pupils of a district in the studies prescribed by law shall be for two or more terms in each year, of which no term shall be less than eight weeks, and all of which shall amount to twenty-four weeks. If a district does not at least thirty-six weeks before the first day of July commence the first term of instruction, or does not at least twenty weeks before said date commence the second term of instruction, or if the full period of instruction required is not completed by the second term, does not at least ten weeks before said date commence a third term of instruction, or if said district after commencing either of said terms shall discontinue the same before the expiration of the time required, the instruction which the district so fails to provide may be secured in the manner hereinafter provided.

SEC. 113. Any voter in said district may present to the Selectmen of the town a petition in writing, setting forth the neglect of the district, and asking that instruction be provided. Upon receiving such petition, the Selectmen shall fix a time and place for hearing thereon, and, if the district has elected officers, shall direct that said petition and notice of the time and place of hearing be served upon the Prudential Committee of the district, like a writ of

summons, at least six days before the time of hearing.

SEC. 114. At the time and place appointed, upon proof of notice to the Committee, if notice was required, the Selectmen shall proceed to hearing, and if upon hearing they find the statements of the petition to be true, they shall forthwith declare the offices in the district vacant, if the district has elected officers, and shall make provision for the instruction of the legal pupils of the district, either in the district or elsewhere, at the times and for the length of time required, or for so much thereof as the district has failed to provide.

SEC. 115. The Selectmen may, without vote of the district, assess a tax upon the grand list of the district, sufficient to defray the expense of such instruction, including the expense of transportation if the pupils are sent out of the district, and shall make a rate-bill therefor. The Town Collector shall collect such tax, and in such collection shall have the same powers and be subject to the same liabilities as in the collection of town taxes. The moneys collected shall be paid to the Selectmen, who shall defray therewith, and with any public moneys coming to said district, the expenses incurred as above provided.

SEC. 116. If the instruction furnished by the Selectmen, together with that furnished by the district, if any, before petition is made to the

Selectmen, amounts to the number of weeks required by law, such district shall be entitled to its share of the public moneys, notwithstanding the want of official certificates in the register.

CHAPTER VI.

TOWN CENTRAL SCHOOL.

SEC. 117. A town may, at an annual meeting, establish a central school for the free instruction of the advanced pupils of the town; and such town shall have all the powers of a school district in the support of such school.

SEC. 118. A town so voting shall, at the same meeting, elect a Prudential Committee of three persons, one to be chosen for one year, one for two years and one for three years from the first day of July next following their election; and the Committee so chosen shall also hold office from the day of their election until the first day of July.

SEC. 119. At each annual meeting thereafter, the town shall elect a successor to the member of the Prudential Committee whose term expires that year, and the term of office of the person so chosen shall commence on the first day of July next following, and continue for three years.

SEC. 120. Such Committee may fill any vacancy occurring therein; but if the commit-

tee neglects for thirty days to fill such vacancy it shall be filled by the Selectmen; and the person appointed to fill a vacancy shall hold office for the remainder of the term, or until the town shall fill the vacancy by election.

SEC. 121. The Prudential Committee shall have the powers and perform the duties of the Prudential Committee of a school district, and shall perform such of the duties of the Clerk of a school district as may be required in connection with such school.

SEC. 122. When a town votes to establish a central school, it shall, at the same meeting, or at a special meeting warned for the purpose, determine the location of the schoolhouse for such school, and provide for the erection or purchase of buildings therefor.

SEC. 123. When a town determines the location of its schoolhouse, or afterward votes to purchase additional lands therefor, the Selectmen shall purchase such lands, and if they cannot agree with the owner upon compensation for the same, the same proceedings shall be had which are provided for like purpose in the case of a school district.

SEC. 124. The town shall annually appropriate money for the support of such school, and shall raise a tax to meet such appropriation; and the Town Treasurer shall keep a separate account of the money so appropriated,

and pay out the same on the orders of the Prudential Committee.

SEC. 125. The school may be attended by such pupils, and the instruction shall be in such branches, as the Prudential Committee may designate; and the Committee may permit persons not residing in the town to attend such school on the payment of reasonable compensation.

CHAPTER VII.

1. MAINTENANCE OF SCHOOLS UNDER TOWN SYSTEM.

SEC. 126. At each annual town meeting in a town using the town system, the town shall elect successors to those Directors whose term of office expires that year, and the term of office of Directors so chosen shall commence at the close of the school year and continue for three years. A vacancy in the board may be filled by the Selectmen until the next annual town meeting, when the town shall elect a Director for the remainder of the unexpired term. All directors, whether elected or appointed, shall hold office until their successors are elected.

SEC. 127. The School Directors shall be sworn, and shall, on or before the first day of July in each year, elect one of their number Chairman, and appoint some person, not one of their number, to be Clerk of the Board.

SEC. 128. The Clerk of the Board of School Directors shall keep a permanent record book and record therein the proceedings of the Board; and he shall make the registration returns to Town Clerks, required to be made, and take the school census required to be taken by School District Clerks, and shall receive the same compensation therefor.

SEC. 129. The Board of School Directors shall have the care of the school property of the town and the management of its schools, determine the number and location of schools, employ teachers and fix their compensation, examine and allow claims arising in school matters, and draw orders upon the Town Treasurer for the payment thereof, and shall in general have the powers and perform the duties of the Prudential Committee and Clerk of a school district; and may make regulations, not inconsistent with the law, for carrrying the powers granted them into effect.

SEC. 130. The Board of School Directors may provide for the instruction of advanced pupils in the higher branches of English study in one or more of the schools; and may establish graded schools, and provide for the teaching of ancient and foreign languages therein.

SEC. 131. The Board of School Directors may receive into the schools under their charge pupils residing in other towns, in the same manner and under the same restrictions as are

provided in the case of school districts, and moneys received for the instruction of non-resident pupils shall be paid into the school fund of the town.

SEC. 132. Said Board may provide for the instruction of any legal pupils of the town in the public schools of an adjoining town if the parents or guardians consent, and may pay for such instruction from the school moneys of the town.

SEC. 133. The Board of School Directors may, in their discretion, provide for conveying any pupils of the town to and from school at the expense of the town.

SEC. 134. The Board of School Directors shall, at each annual town meeting, present to the town a report of their doings, with an exhibit of orders drawn by them for the use of schools.

SEC. 135. The compensation of School Directors shall be fixed by the town at the time of their election, and shall be paid out of its treasury.

SEC. 136. The Selectmen of a town using the town system, shall annually appropriate for the use of schools in such town, a sum not exceeding one-half nor less than one-fourth of the grand list of such town, and shall assess a tax annually to defray such appropriations; and the provisions of section two hundred and

twenty-eight of this act shall not apply to such town.

SEC. 137. The Treasurer of such town shall keep a separate account of the moneys appropriated or given for the use of schools, and shall pay, out of such moneys, orders drawn by the Board of School Directors for the use of schools.

SEC. 138. Such town shall provide and maintain suitable schoolhouses, and the location, construction, and sale of the same shall be under the control of the Board of School Directors.

SEC. 139. The foregoing provisions of this chapter shall not apply to a graded school district incorporated by act of the Legislature, unless accepted by a vote of two-thirds of the voters therein; and the vote upon such question may be taken previous to the town meeting when action is to be taken upon the adoption of the town system, to be contingent upon the action of the town; and the voters of the town embraced within the limits of such graded school district shall not be qualified to vote in town meeting upon the question of adopting the town system, or for the election of school officers therein, or upon the question of abolishing the town system, unless such district has previously voted to accept the provisions of this chapter.

SEC. 140. Sections one hundred and twen-

ty-six to one hundred and thirty-eight, inclusive, of this chapter, shall not apply to a district formed by the concurrent votes of two or more adjoining towns, without the concurring vote of each of said towns consenting thereto.

SEC. 141. A graded school district in a town having the town system, or a fractional district having a part thereof in such town, shall receive from the public moneys of such town a share which shall bear such proportion to the whole amount of public moneys as the aggregate attendance in such district, or part thereof in such town, bears to the aggregate attendance of the whole town.

II. ABOLISHMENT OF TOWN SYSTEM.

SEC. 142. A town which has abolished its school district system under the provisions of this chapter may at its annual town meeting in March, 1889, and at any fifth annual town meeting thereafter, abolish its town system of schools by a vote of a majority of the legal voters present, and the Selectmen of such town shall insert an article for that purpose in the warning for any fifth annual town meeting after such town has abolished its school district system, upon the application in writing of ten legal voters in such town.

SEC. 143. When a town abolishes, or has abolished its town system of schools, the town shall be divided into the same number of school

districts, with the same limits and boundaries, and the districts shall be designated by the same numbers, and shall have the same powers, and be subject to the same duties and liabilities as before they were abolished by said town.

SEC. 144. When a town votes to abolish the town system of schools, the schoolhouses and other property formerly belonging to the school districts shall become the property of the same school districts respectively.

SEC. 145. And there shall be paid to and by the different districts such sum as will equalize the school properties, so that when so restored to the district system, each district shall own its own school property as before the adoption of the town system; and the Selectmen and the Prudential Committees of the several districts may agree upon the amounts to be so paid, and shall file a written statement thereof by them subscribed in the Town Clerk's office.

SEC. 146. If the Selectmen and the Prudential Committees of the various districts cannot agree upon the valuation and equalization of the school property, the Assistant Judges of the County Court shall, upon application in writing of a majority of the Selectmen, or any one of the Committee, appoint three commissioners, not residents of or tax-payers in the town, who shall appraise the various school properties upon the same scale of values as the former appraisal, and shall determine what sum shall

be paid by or to the several districts to equalize said school properties, and shall determine any and all questions between the town and the districts, or between the several districts growing out of the adoption and abolishment of the town system.

SEC. 147. Such Commissioners shall give to one or more of the Selectmen ot the town, and to the several Prudential Committees at least ten days' notice of the time when they will appraise such school preperties, and of the time when and the place where they will determine the amounts to be paid or received by the different school districts, and any other question which shall be submitted to them; and they shall make and file in the Town Clerk's office a report of all their doings and findings, which shall be final and conclusive upon all parties.

SEC. 148. When the Selectmen and Prudential Committees have agreed upon the amounts to be paid or received by the several districts, and have filed in the Town Clerk's office a written statement by them subscribed, or when the Commissioners shall have filed their report in this respect, the Selectmen of the town shall assess a tax upon the Grand Lists of the Districts from which such sums are due, sufficient to cover such sums, and shall cause the same to be collected and paid into the town treasury, like town taxes, and shall pay out of the town

treasury to the several districts such sums as they are entitled to receive and the town may vote, at the meeting at which the town system is abolished, to distribute the process of equalization equally over two, three or four years.

SEC. 149. At the annual town meeting, at which the town system of schools is abolished, the voters shall elect a Clerk for each school district, who shall be a voter in such district. And such clerk shall call the first meeting of said school district, which shall be held on the last Tuesday of June next succeeding said town meeting, by posting up notice as provided by law for holding the annual meetings in school districts; and said school district may at this meeting elect officers for the year ensuing, and do any business that school districts may do at their annual meetings.

CHAPTER VIII.

SCHOOL AGE—ATTENDANCE.

SEC. 150. The term school age shall include persons between the ages of five and eighteen years. No child under five years of age shall be received as a pupil in a public school, except as provided in the following section.

SEC. 151. A district may by vote provide a kindergarten school for the instruction of children under five years of age residing in the dis-

trict; and when such a school is maintained it shall be attended by such pupils over five years of age as the Prudential Committee may designate.

SEC. 152. For public school instruction in the branches prescribed by law, a pupil shall attend the school provided by the district in which he resides. The Prudential Committee of a district maintaining a school for advanced pupils may permit non-residents to attend such school upon the payment of reasonable tuition.

SEC. 153. Every person having under his control a child of good health and sound mind between eight and fourteen years of age, shall cause such child to attend a public school at least twenty weeks in the year, unless such child has been otherwise furnished with the means of education for a like period of time, or has already acquired the branches of study required by law to be taught in the common schools.

SEC. 154. No child between ten and fourteen years of age, who has resided in the State one year, shall be employed in a mill or factory unless such child shall have attended a public school twenty weeks during the preceding year, and shall deposit with the owner or person in charge of such mill or factory a certificate showing such attendance, signed by the teacher of such school.

SEC. 155. The Supervisor of Schools may inquire of the owner or person in charge of a mill or factory as to the employment of children therein; and may call for the production of the certificates required to be deposited with such person, and ascertain if there is any violation of the law in the employment of such children.

SEC. 156. No person, after the first day of July, one thousand eight hundred and eighty-nine, shall give employment to any child under fourteen years of age who cannot read and write, but is capable of receiving such instruction, during the time when the school which such person should attend is in session.

SEC. 157. A person who shall violate the provisions of section one hundred and fifty-three or of section one hundred and fifty-four, or of section one hundred and fifty-six of this act, or who shall refuse to give the information or exhibit the certificates required to be given and exhibited by section one hundred and fifty-three of this act, shall forfeit not less than ten nor more than fifty dollars, to be recovered by prosecution before a Justice, one-half to go to the complainant and one-half to the town in which the child resides.

SEC. 158. A person having a grand list of over eight dollars, who shall suffer a child under his control to remain out of school any part of the twenty weeks such child is required

to attend, under such circumstances as to constitute a violation of the provisions of section one hundred and fifty-three of this act, shall be liable to the district for a sum equal to the amount of public money which the district has lost by reason of the non-attendance of such child, as determined by the amount distributed to such district for the attendance of a pupil for the same length of time during such year, to be recovered by the district in an action founded on this section at any time within three years after the close of the school year in which such non-attendance occurred.

SEC. 159. The truant officer of a town or a member of the Prudential Committee of a district, or any officer authorized to make arrests in the town in which such district is located, may arrest, and upon the written application of three voters in the district shall arrest, a child who, under the provisions of section one hundred and fifty three of this act, is required to attend school, and who, during a term of the public school in the district in which he resides, is habitually found in the streets or other public places, having no lawful occupation, or who is an habitual truant; and shall take him to the school in said district and place him in charge of the teacher thereof; and shall give notice thereof in writing to the parent, guardian or master therein, requiring him to cause such child to attend school regularly.

SEC. 160. If such parent, guardian or master does not cause such child to attend school regularly after receiving such notice, for the remainder of the term of school during which such arrest was made, having no good reason for failing so to do, the officer making the arrest shall make complaint to a Justice, and such Justice shall issue a warrant directed to any sheriff or constable in the State, commanding him forthwith to arrest and bring before said Justice such parent, guardian, or master, and such child; and upon proof that the child was liable to arrest, as provided in the preceding section, and that the parent, guardian, or master has received and not complied with the notice and requirement before specified, the Justice shall fine such parent, guardian or master, not less than ten nor more than twenty dollars, which shall be paid into the treasury of the town for the benefit of schools in such town.

SEC. 161. The complaint shall be sufficient if it states that said parent, master or guardian neglects to send to school as required by law, his child, apprentice or ward, naming such child, apprentice or ward; and prosecutions under such complaint shall be conducted like criminal prosecutions, and an appeal may in like manner be had to the County Court.

SEC. 162. The truant officer of a town or a Prudential Committee of a school district, or officer authorized to make arrests in the town

in which such district is located, who shall refuse or neglect to carry out the provisions of sections one hundred and fifty-nine and one hundred and sixty of this act, after application made to them as provided in the first named section, shall be fined not exceeding one hundred dollars. A Justice of the Peace shall have concurrent jurisdiction with the County Court under this section.

CHAPTER IX.

SCHOOL YEAR: CENSUS.

SEC. 163. The school year shall commence on the first day of July, and end on the last day of June following. In the absence of express contract, a session of three hours in the forenoon and three in the afternoon shall constitute a school day, five such days a school week, and four such weeks a school month.

SEC. 164. Each district shall maintain a school at least twenty-four weeks in the school year. No school shall be taught between the last day of June and the last Monday in August without the written permission of the Supervisor of Schools.

SEC. 165. A district may by vote establish evening schools, and may maintain the same as day schools are maintained; and each session of an evening school may be treated as a half-day session of a public school.

SEC. 166. The time, not exceeding four days, actually spent by the teacher of a common school in attendance upon a Teachers' Institute, during the time for which such teacher is engaged to teach, shall in determining the compensation of the teacher and the number of weeks of school maintained by the district, be accounted the same as if spent in teaching.

SEC. 167. A public school teacher shall not be required to teach or perform other service on any day made a legal holiday by the laws of this State, and no deduction shall be made from his time or compensation because of his absence on such days; and such days shall not be deducted in determining the number of weeks of school kept by the district.

SEC. 168. The clerk of each school district shall annually, during the last two weeks of the school year, prepare an accurate list containing the name and age of each child of school age residing in the district, and the name of the parent or other person having control of such child; and he shall keep such list on file, and make such report therefrom as the Superintendent of Education may require.

SEC. 169. If a parent or other person having control of a child between the ages of eight and fourteen years, shall refuse to give the Clerk information as to the age of such child, or shall falsely state the same, he shall be fined not more than twenty dollars.

SEC. 170. A District Clerk shall receive from the treasury of the district for taking such census a sum equal to three cents for each person of school age in the district.

CHAPTER X.

TEXT-BOOKS.

SEC. 171. The county board of education shall, in the year one thousand eight hundred and ninety, and in every fifth year thereafter, select such text-books, one book of a grade in each study; except that in the first selection text-books on Physiology and Hygiene shall be omitted; and said Board shall, in the year one thousand eight hundred and ninety-two, make a selection of text-books so omitted, to have effect until the general selection of text-books three years later.

SEC. 172. The Board shall complete a selection of text-books before the first day of April, and within seven days after that date shall publish a report thereof in all the newspapers of the county; and from the first day of July following until another selection is established, the use of any other text-books in the studies prescribed by law in the schools of the county is prohibited. But this shall not be held to prevent the use of such books as may be supplied without expense to the pupils.

SEC. 173. The publisher of any books selected by said Board shall be required to enter into a written agreement to furnish for sale in the towns of such county, at such prices as may be therein named for the period of five years, as many of such books as may be required, of the quality and style agreed upon with said Board.

SEC. 174. In case of a failure to supply any of the books selected in accordance with the terms of such agreement for the full period required, said Board may select other books to be used in their stead until the time of the next regular selection.

SEC. 175. The Chairman of said Board shall arrange with one or more persons in each town to keep for sale the authorized text-books, who shall receive on the sale thereof not more than the freight and express charges and ten per cent advance upon the publishers' contract prices.

SEC. 176. Payment of the expense of publishing the report of the Board, shall be made by the Supervisor, who shall be allowed the same in the settlement of his accounts.

SEC. 177. If a member of the Text-Book Board shall directly or indirectly, accept any appointment, gift, private compensation, or promise of reward, for his action in the selection of text-books, he shall be fined not exceed-

ing one thousand dollars and imprisoned not more than one year.

SEC. 178. Text-books on physiology and hygiene shall be furnished pupils in the public schools at the expense of the State, until July 1, 1895.

SEC. 179. The regulations heretofore prescribed for the supply and return of such books shall continue in force until changed by the county Text-Book Board; and the duties performed by Town Superintendents under such regulations shall, after the first day of April next, be performed by the Town Clerks.

SEC. 180. Town Clerks shall annually, in the month of April, estimate the number of such books of each kind needed for the school year next ensuing, and forward such estimates to the Secretary of State.

SEC. 181. The Secretary of State, having received such estimates, shall procure the required books from the contractors and forward the same at the expense of the State to the Town Clerks; and he shall keep a record of the books ordered, received and distributed, and shall certify to the Auditor the amounts due the contractors; and the Auditor shall draw orders therefor.

SEC. 182. Such books shall remain the property of the State. Town Clerks shall distribute them as the regulations prescribe, and reclaim them when required by such regulations.

SEC. 183. When a pupil is not provided with the required text-books, other than those furnished by the State, the teacher shall notify the Prudential Committee, and such Committee shall thereupon give notice of such deficiency to the parent, master or guardian of such pupil; and if the person notified fails to supply such pupil within one week, the Prudential Committee shall supply him.

SEC. 184. The Prudential Committee shall give written notice to the Selectmen of the name of each pupil supplied by him, the name of his parent, master or guardian, and the cost of the books supplied; and shall receive from the Selectmen an order on the Town Treasurer for the money so expended.

SEC. 185. The Selectmen shall, in assessing the next annual tax, add the sum so expended for any pupil to the tax of the parent, master or guardian of such pupil, or may omit a part or all of said sum if such person is unable to pay the same. The amount so added shall be collected and paid into the treasury like a town tax.

SEC. 186. Any town or district may purchase and hold text-books for use in its schools, if it so votes in a meeting warned for that purpose.

SEC. 187. If the Superintendent of Education, or a Supervisor of Schools, member of a Text-Book Board, or other person officially

connected with the direction of any public school, or any teacher in a public school, shall directly or indirectly receive any gratuity or compensation for recommending or procuring the adoption of a school book, or the purchase of any school apparatus, furniture or other school supplies, in any public school of this State, such person shall be fined not less than twenty nor more than one hundred dollars.

CHAPTER XI.

REGISTERS AND RETURNS.

SEC. 188. The Superintendent of Education shall prescribe blank forms for a school register for keeping a record of the daily attendance of pupils, and interrogatories to be printed in said register for procuring the statistical information required to be given by teachers and district officers, and for procuring such further information as he may think desirable.

SEC. 189. The Superintendent of Education shall annually, in the month of May, transmit to Town Clerks a sufficient number of such registers to supply the schools in their respective towns; and a Town Clerk receiving such registers shall immediately forward to the Superintendent a receipt therefor.

SEC. 190. A District Clerk shall, annually, on or before the fifteenth day of June, procure from the Town Clerk a register for each school

in his district, and shall be responsible for the safe keeping thereof.

SEC. 191. A teacher shall, before commencing school, procure a register from the District Clerk, and shall keep therein, in the prescribed form, a record of the daily attendance of each pupil, and shall enter therein correct answers to the interrogatories addressed to teachers, and shall return such register to the District Clerk at the end of each term, the final return to be on or before the thirtieth day of June.

SEC. 192. Upon the return of such register the District Clerk shall examine the same, and if he finds it filled out as required by law, and properly certified to by the teacher, he shall give such teacher a certificate to that effect; and the teacher shall not be entitled to his compensation except on presentation of such certificate of the District Clerk to the Prudential Committee.

SEC. 193. The District Clerk upon the final return to him of the register shall enter therein correct answers to the interrogatories to be answered by the Clerk; and the Prudential Committee shall enter therein the name of each teacher of the school during the school year, and the date and character of such teacher's certificate, and certify to the correctness of such entry; and the District Clerk shall file such register so completed in the office of the Town Clerk on or before the third day of July.

SEC. 194. The register returned by the Clerk of a fractional district shall contain a statement of the number of children in the district between the ages of five and eighteen years, the number of said children residing in each of the towns composing such district, the aggregate attendance of children in such district residing in each town, and also the aggregate attendance of the whole number of children between the ages of five and twenty years in the district.

SEC. 195. The Clerk of such fractional district shall, at the time of returning the register, return to the Town Clerk of each town from which such district is formed, other than the Clerk of the town in which the register is filed, a certified copy of the above statement, and of the Prudential Committee's certificate as to the names and certificates of the teachers, as the same appear in said register.

SEC. 196. For the purposes of the returns provided for in the two preceding sections, and the division of public money thereon, a district which has belonging to it inhabitants of another town set to it by vote of such town and received by consent of the district, shall be treated as a fractional district.

SEC. 197. The Town Clerk shall, annually, on or before the sixth day of July, make out and return to the Supervisor of Schools, in the form prescribed by the Superintendent of Edu-

cation, the statistics of the Schools in each district, and the Supervisor upon receiving the same shall return a receipt thereof.

SEC. 198. Trustees of incorporated academies and grammar schools shall cause their principals to return to the Superintendent of Education, on or before the first day of July, annually, answers to the statistical inquiries addressed to them by said Superintendent.

SEC. 199. For all services under this chapter and the preceding chapter, the Town Clerk shall receive from the town treasury a sum equal to two cents for each person of school age in the town, but such compensation shall not be less than two or more than twenty dollars.

CHAPTER XII.

SCHOOL TAXES AND SCHOOL MONEYS.—

I. SCHOOL DISTRICT TAXES.

SEC. 200. The grand list of a school district shall be made up of the polls of inhabitants of the district, of the real estate lying in the district, and of the personal estate taxable therein; and real estate shall be taxed for school purposes only in the district in which it is situated.

SEC. 201. A school district may, by vote, raise a tax upon its list for the support of schools

therein; and all expenses incurred by a district for the support of schools, in excess of public moneys received by the district, shall be so defrayed.

SEC. 202. The Prudential Committee shall, as soon after such vote as circumstances may require, assess a tax for the amount voted to be raised, and make out a rate bill of the same; and any Justice of a county in which the whole or part of such district is situated, shall, on application, make out a warrant directed to the District Collector, authorizing and requiring him to levy and collect such tax within the time limited in such warrant, and pay the same to the Treasurer of the district.

SEC. 203. A district may by vote, at the meeting at which a tax is voted, direct the Collector to deduct a per cent fixed by said vote, from the tax of a person who shall pay his tax before a day fixed by said vote. A Collector shall make no deduction in favor of a person who does not pay his tax before the day fixed.

SEC. 204. The Collector of a tax from which deduction may be had as above provided, shall appoint a day within the time limited, and a place within the district, when and where he will attend to receive such tax; and shall post a notification thereof in three public places in the district, and at least ten days before the time appointed; and shall attend at the same time and place appointed to receive payment of such tax.

SEC. 205. A district may, by a two-thirds vote, instruct the Prudential Committee to omit, in making up a tax-bill, the names of such persons as are unable to pay their proportion of the tax; and a district may by a two-thirds vote remit or make abatement on a taxbill to an amount not exceeding five per cent of the same.

SEC. 206. The officers of a school district, except the Collector, shall be a board for the abatement of district taxes, and as such board shall have the powers which the board for the abatement of town taxes has in the abatement of town taxes. A majority of such officers shall constitute a quorum. The Prudential Committee, on request of the Collector, shall call a meeting of said board in the month of June in each year, previous to the annual school meeting, by posting notice therefor in three public places in said district at least five days before such meeting.

SEC. 207. The District Collector shall proceed in the same manner and have the same powers in levying and collecting district taxes as Town Collectors in levying and collecting town taxes, and shall within the time limited collect and pay the same to the District Treasurer; and the Prudential Committee shall have the same authority to enforce the collection and payment of district taxes that Town Treasurers have to enforce the collection and payment of town taxes.

SEC. 208. A District Collector shall, on the written request of one of the Prudential Committee, pay to the District Treasurer all moneys belonging to the district collected by him up to that time, and submit his tax-book and list to said Treasurer for inspection and computation; and if a Collector shall neglect so to do for ten days after receiving such request he shall forfeit to the district one hundred dollars, to be recovered in an action on this statute, and his office shall be vacant.

SEC. 209. When demand is made upon a school district for the payment of an execution issued against it, and the district has no available funds to pay the same, the Prudential Committee shall forthwith assess, and have collected, a tax sufficient to pay such execution and the charges and twelve per cent interest, in the same manner as a tax voted by the district is assessed and collected.

II. UNITED STATES DEPOSIT MONEY.

SEC. 210. The Treasurer of the State shall receive moneys belonging to the United States to be deposited with this State and give a certificate of deposit for the same according to law.

SEC. 211. Such moneys shall be apportioned to the several towns, organized and unorganized, and to the gores, in proportion to the number of inhabitants in each. When a census is taken under the laws of Congress or

of this State, a new apportionment shall be made. If upon such new apportionment it appears that a town has more than its share, the Treasurer of the State shall demand and recover from such town such excess; and if a town has less than its share, he shall make up the deficiency to such town.

SEC. 212. The Treasurer of the State shall pay over to the Trustees of the public money in each town which has elected such Trustees, provided such Trustees have executed the required bond, the share of the deposit money apportioned to such town.

SEC. 213. Such Trustees shall receive such town's share of the deposit money and shall give the Treasurer of the State a receipt therefor, similar to that given by said Treasurer to the Secretary of the Treasury of the United States; and said Trustees shall manage such money and report the condition of the same at each annual town meeting.

SEC. 214. Such Trustees, before entering upon the duties of their office, shall execute a bond to the town, with at least three sufficient sureties in such sum as the Selectmen direct, conditioned for the faithful performance of their duties in loaning, managing, accounting for and paying over, as may be required by law, the moneys placed in their charge under the provisions of this chapter. And if a Trustee fails to execute such bond his office shall be

vacant and such vacancy may be filled as in other cases of vacancies in town offices.

SEC. 215. The Trustees of the Public Money may loan the same to the town, if a town at a meeting warned for that purpose authorizes the Selectmen to borrow it. If the money is not loaned to the town, the Trustees shall loan the same with sufficient personal security, or on mortgage, as they may deem safe, made payable to the respective towns at an interest of six per cent annually. Such loans shall be made for a term not exceeding one year; and the moneys may be collected at the expiration of the term and loaned to other persons, or the loan may be extended to the same person for an additional period. The Trustees shall annually, previous to the first day of June, pay to the Town Treasurer the income received from such moneys.

SEC. 216. The Treasurer of the State shall retain the share apportioned to towns which have not elected Trustees, and the shares of unorganized towns and gores, and shall annually, previous to the first day of June, pay to the Treasurer of each organized town not electing Trustees, and to the Treasurers of school districts in unorganized towns and gores which have maintained schools for the required length of time during the previous year, the interest upon the shares apportioned to such towns and gores. And he shall divide the interest money

of each unorganized town or gore among the school districts therein in the manner provided for the distribution of town school moneys among the several districts in towns.

SEC. 217. The Treasurer of each town shall give credit in his account of the school fund, for all sums received by him as income from the town share of the deposit money.

SEC. 218. The income from the deposit money received by each town shall be annually appropriated to the support of schools in the town. But if a town has other school funds, the income of which is sufficient to support schools in all the districts in such town for six months in each year, such town may appropriate the income received from its share of such money to the support of schools or to any purpose.

SEC. 219. Towns which have received their portion of the deposit money shall be accountable for the same, or any part thereof, when required by the Treasurer of the State on requisition of the United States, or for the purpose of a new apportionment, as towns are accountable for State taxes.

SEC. 220. If a town fails to comply with the provisions of this chapter, relative to the management or disposition of United States moneys, received by such town, it shall forfeit to the Treasurer of the county, for the use of

such county, a sum not exceeding double the amount of the interest on such moneys.

SEC. 221. The Grand Jury shall inquire how the towns have managed and disposed of the moneys so deposited with them, and the annual interest thereof; and if a town has not complied with the provisions of this chapter, relative to such deposit money, they shall present to the Court their indictment therefor against such town; and notice thereof shall be given to such town as is required in case of indictment for not repairing highways.

SEC. 222. The Treasurer of the State, in the collection of the United States deposit money loaned by former Treasurers, shall adjust and settle the same as is for the interest of the State.

III. TOWN SCHOOL FUND.

SEC. 223. The selectmen of a town shall have charge of the real and personal estate in such town appropriated as a fund to the use of schools therein, unless otherwise provided for by law, or unless the person giving any part thereof directs the same to be managed in some other way, and shall annually render an account to the town of their proceedings in connection therewith; and the selectmen shall lease lands appropriated for such purpose, and loan moneys on annual or semi-annual interest, with sufficient security, and for such security

may take mortgages or deeds of any real estate in the state.

SEC. 224. The securities for the payment of the moneys so loaned and the interest thereon, shall be taken in the name of the town, and the selectmen may, in the name of the town, prosecute and defend actions for the recovery or protection of the estate so intrusted to their care; and if the title or possession of real estate mortgaged or deeded as security is recovered in such action, the selectmen may, in the name of the town, lease or sell and convey such real estate, and invest the moneys received therefrom as provided in the preceding section.

SEC. 225. A person authorized to take the acknowledgment of deeds may take the acknowledgment of a deed provided for in the two preceding sections, or may sign such deed as witness, although he is an inhabitant and tax-payer of the town.

SEC. 226. The securities belonging to the town school fund shall be deposited in the office of the treasurer of the town; and moneys received on account of the same, shall be paid into such treasury; and a separate account of the same shall be kept on the books of the treasurer.

IV. TOWN SCHOOL TAXES.

SEC. 227. A town may at an annual meeting, or at a meeting warned for that purpose,

raise money for the use of schools, by a tax on the list of such town.

SEC. 228. If in any year the income appropriated for the use of schools in a town (exclusive of the income from the Huntington Fund), with any tax voted by town, after deducting one-half the income of the United States deposit money, amounts to a less sum than twelve per cent of the grand list of the town, the selectmen shall draw an order on the town treasurer on or before the first day of July for such amount as such sum is less than such twelve per cent, for the use of schools in such town.

SEC. 229. If the selectmen do not draw an order as provided in the preceding section, and appropriate the amount of such order for the support of schools as provided by law, the town shall forfeit to the county a sum equal to double the amount for which the selectmen are required to draw an order, to be recovered by information or indictment in the county court.

SEC. 230. One-fourth of such penalty shall be for the use of the county, and three-fourths shall be paid to the selectmen for the use of schools in such towns; and the treasurer of the county, immediately after the receipt of such money, shall give notice thereof to the selectmen of the town, who shall forthwith receive, apportion and appropriate the same to the support of schools in such town, in the manner herein provided.

SEC. 231. Grand juries shall annually inquire whether towns in their counties have appropriated and expended the required sum for the support of schools as provided in this chapter, and in case of neglect they shall present their indictment thereof to the court.

SEC. 232. The supervisor of schools shall learn if the requirements of this chapter relating to the appropriation and expenditure of moneys from the town treasury for the support of schools are complied with, and in case of a noncompliance he shall bring the matter to the attention of the state's attorney or grand jury.

V. DIVISION OF PUBLIC MONEYS.

SEC. 233. The selectmen of such town shall annually, between the third and sixth days of July, divide the school moneys in the treasury of such town among the school districts in such town; and such moneys shall be paid over, under the direction of the selectmen, to the treasurers of the several districts.

SEC. 234. If the sum for division does not exceed twelve hundred dollars, one-half thereof; if such sum exceeds twelve hundred dollars and does not exceed twenty-four hundred dollars, one-half of the first twelve hundred dollars and one-sixth of the remainder; if such sum exceeds twenty-four hundred dollars and does not exceed thirty-six hundred dollars, one-half of the first twelve hundred dollars, one-sixth of the second twelve hundred dollars,

and one-twelfth of the remainder; if such sum exceeds thirty-six hundred dollars, nine hundred dollars of such sum shall be divided among the school districts in each town equally, except as is otherwise provided in the case of districts only partially situated in the town.

SEC. 235. The remainder of such moneys shall be divided among the districts in the town in proportion to the aggregate attendance of pupils between the ages of five and twenty years upon the schools of the district during the preceding school year, except as otherwise provided in the case of districts only partially situated in the town; such aggregate attendance to be ascertained from the records thereof kept in the registers of such schools, by adding tegether the number of days of actual attendance of each pupil between the ages of five and eighteen years.

SEC. 236. Before making such division the Selectmen shall carefully examine the entries in each register, and ascertain whether a school has been kept in the district twenty-four weeks during the school year, and whether it appears from the certificate of the prudential committee that such school was kept by teachers duly licensed; and whether the entries required to be made by the District Clerk have been made as required; and no public money shall be distributed to a school district unless such district has supported a school twenty-four weeks dur-

ing the school year; nor unless the register contains the certificate of the prudential committee as to the date and character of the certificates of the teachers, nor unless it appears from such certificates that such school was taught the entire twenty-four weeks by licensed teachers, nor unless the register has been properly filled out by the district clerk.

SEC. 237. The Prudential Committee, or if he is disabled from doing so, some other person having knowledge in the matter, shall on or before the first day of July in each year, return to the town clerk a statement under oath of the actual cash expenditure of the district for the preceding school year for school purposes other than the construction or repair of buildings; and no district shall be entitled to receive any portion of its school moneys unless such return is so made. No district shall receive from the town the full amount of its school moneys unless it has actually expended during such preceding school year for school purposes, other than the construction or repair of buildings, a sum equal to the amount of its school moneys for such year, exclusive of private bequests, and one-tenth of its grand list for such preceding year, and the sum paid to a school district in any one year shall be diminished by the amount by which the sum actually so expended by the district in such preceding year, is less than the school moneys, exclusive of private bequests and one-tenth the grand list of the dis-

trict for such preceding year. And such difference instead of being paid to the district shall be distributed to the remaining school districts in town entitled to the same upon the aggregate attendance in such district.

SEC. 238. When a district actually expends in any school year, in the maintenance of a legal public school, (for not more than twenty-four weeks), other than in the construction and repair of buildings, a sum greater than the amount of its school moneys for that year and one-third of its grand list, it shall receive from the town one-half of such excess, provided such expenditure be reasonable. And if the Selectmen and Prudential Committee cannot agree as to this, the certificate of the Supervisor for the county shall be final. Such excess shall be paid over by the town at the same time with the school moneys, or as soon thereafter as the certificate of the Supervisor is furnished.

SEC. 239. When, under the provisions of section 237, any fractional district is not entitled to receive from the several towns in which it is situated the full amount of its school moneys, such amount shall be diminished in the proportion that the amount actually expended by it in the preceding school year bears to the amount of its school moneys and one-tenth of its grand list for such year. When, under the provisions of section 238, any fractional district is entitled to receive any excess

from the towns in which it is situated, that excess shall be paid by the several towns in the proportion that the number of scholars of school age belonging to such district and residing in such town bears to the whole number in the district.

SEC. 240. A Prudential Committee who knowingly shall make a false certificate as to the date and character of teachers' certificates, or a false statement of the amount expended, or a District Clerk who knowingly shall make false answers to the inquiries contained in the register, or a Selectman who shall knowingly distribute public money to a school district not entitled thereto, shall forfeit to the town one hundred dollars, to be recovered in an action on this statute.

SEC. 241. The Supervisor of Schools shall annually make inquiry as to the division of the public money, and report to the town any violation of the requirements of the law.

SEC. 242. A graded school district formed of two or more original districts shall receive the same amount of that portion of the public school money which is distributed equally between the districts as the districts forming such graded school district would have received.

SEC. 243. A fractional district shall receive from the treasury of each town a proportion of the moneys so distributed, as follows:

I. Of that part which is divided equally among the districts, a sum bearing the porportion to the sum severally received by the other districts in such town, which the number of children in such district, residing in such town, bears to the whole number of children in such district.

II. Of that part which is divided among the districts in proportion to the aggregate attendance of pupils, a sum bearing the proportion to the whole sum to be divided in such town which the aggregate attendance of the whole number of children in such district, residing in such town, bears to the aggregate attendance of the whole number of children in such town.

SEC. 244. The Selectmen, in the month of July annually, after they have made division of the public moneys, shall lodge with the Town Clerk a written statement of the amount of money divided to each district for the preceding school year.

CHAPTER XIII.

SCHOOL-HOUSES.

SEC. 245. A school district may by vote raise a tax on its list to purchase or hire lands or buildings for school purposes, and to build, repair or furnish a school-house, or as many school-houses as may be needed for the schools of the district.

SEC. 246. A school district may elect a special committee to purchase or hire lands or buildings for school purposes, or to superintend the building or repairing of a school-house, or to procure necessary furniture and utensils therefor.

SEC. 247. A Prudential Committee receiving a report from the Supervisor of schools recommending the repair or furnishing of a school-house, and not complying with the recommendations in such report, shall cause such articles to be inserted in the notice of the next meeting of the district as will enable the district to act upon such recommendations.

SEC. 248. A district taking measures to provide a building to be occupied as a school-house, as authorized in section two hundred and forty-five, may, at the same meeting, by a two-thirds vote, determine the location of the school-house.

SEC. 249. If the district fails to agree upon such location, the selectmen of the town or towns in which such district is situated may, upon application of the prudential committee, determine such location.

SEC. 250. If the Prudential Committee neglects for five days to apply to the Selectmen, three voters of the district may apply in writing to such selectmen, stating the neglect of the Prudential Committee, and petitioning the Selectmen to fix upon a location.

SEC. 251. The Selectmen so applied to, shall forthwith give notice of a hearing, in the same manner as school district meetings are warned, and shall hear the petitioners and persons interested; and if the failure of the district to determine a location, and of the Prudential Committee to apply within the limited time appears at such hearing, the Selectmen shall determine such location, and shall make return of the application and of their doings thereon to the District Clerk, who shall record the same.

SEC. 252. If a district neglects for two years to provide suitable school-house, or negleets for one year to make the repairs or do the furnishing recommended by the Supervisor of schools, application for an order in the matter may be made by two voters of the district to the selectmen of the town or towns in which the district is situated.

SEC. 253. Such Selectmen shall appoint a time and place for hearing the applicants and persons interested, and shall cause the applicants to give notice to such district of such application, and of the time and place of hearing, which notice shall be served upon the district like a writ of summons, at least twenty days before the time appointed for hearing.

SEC. 254. If it appears on hearing that the district is guilty of the neglect charged, and that the interests of education in the district

require an order in the matter, the Selectmen shall order the district to provide a school-house, or to make the repairs or do the furnishing recommended by the Supervisor, as the case may be, which order shall be served on the district like ordinary process in civil causes.

SEC. 255. If the district fails to comply with such order within six months after service thereof, the Selectmen who made the order, or their successors in office, shall provide the school-house, or make the repairs or do the furnishing required by their order; and when providing a school-house, they shall provide suitable out-buildings and grounds therefor.

SEC. 256. The Selectmen may assess a tax upon the district list for the amount required for the puposes aforesaid, and make out a rate bill therefor; and said tax shall be collected by the collector of the town in which the school-house is located, in the same manner as town taxes are collected, and shall be paid to the Selectmen and be used by them for the purposes aforesaid.

SEC. 257. The proceedings under the five preceding sections shall be recorded in the office of the clerk of the town in which the school-house is located, and copies of such record, certified by such clerk, shall be evidence in the courts.

SEC. 258. When it devolves upon the Selectmen to locate or build a school-house, if a

majority of such Selectmen cannot agree upon a location therefor, they shall forthwith make a return of the application made to them and of their failure to agree, to the District Clerk, who shall make a record of the same. In such case three voters of the district may apply in writing to an assistant judge of the county court to determine the location of such school-house; and such judge shall give notice of a hearing, hear, determine the matter, and make return of his proceedings, and such proceedings shall be recorded, as provided in case of the location of a school-house by Selectmen; and the assistant judge shall for his services be paid by the district three dollars a day and his expenses.

SEC. 259. When a school-house is located and lands for such school-house and yards are needed, or when a district votes to purchase additional land for school purposes, if the owner of such lands refuses to convey the same to the district for a reasonable price, the Selectmen of the town or towns in which the district is situated, on the application of the Prudential Committee, shall locate and set out the necessary lands and cause the same to be surveyed; and shall appoint a time and place for a hearing and give notice thereof to persons interested in the land to be taken, either personally or by written notice left at the residence of the owner or occupant of such land; and at such hearing shall ascertain the damages sustained by such interested persons; and the damages

assessed shall be paid or tendered to such persons before taking possession of the land.

SEC. 260. When the Selectmen decide to take land, they shall, in their order for that purpose, fix a time and notify the owner or occupant thereof, within which he will be required to remove his buildings, fences, timber, wood, trees and wall, which, in case of inclosed or improved land, shall not, without the consent of the owner, be less than three months, nor until the compensation for damages to such land is tendered or paid; and if they are not removed within that time, the Selectmen shall remove them at the expense of said district; but the district shall not take possession of such land until the damages agreed upon or as determined by the Selectmen shall have been paid or tendered to the persons entitled thereto.

SEC. 261. All orders and proceedings of the Selectmen, under the provisions of the two preceding sections, with the survey of the land taken, shall be recorded in the Town Clerk's office of the town in which the land lies.

SEC. 262. If the owner of such land does not accept the damages awarded by the Selectmen, the Prudential Committee of the district may agree with him to refer the question of damages to one or more disinterested persons, whose award shall be made in writing, and shall be final.

SEC. 263. If a person interested in such land is dissatisfied with such location or with the damages awarded by the Selectmen, he may apply by petition to the County Court at its next stated term, if there is sufficient time for notice, and if not, to the succeeding term; and any number of persons aggrieved may join in the petition. The petition, with a citation, shall be served on one of the Prudential Committee of the school district, at least twelve days before the session of the Court, and the Court shall appoint three disinterested Commissioners who shall determine the amount of damages sustained by the persons interested therein.

SEC. 264. The Commissioners shall give six days' notice to one of the Prudential Committee of the school district of the time and place of making such inquiry and hearing the parties; and on the report of the Commissioners the Court shall render judgment for the petitioner to recover against the school district such damages as appear to be just, and may tax costs as seems just for either party, and award execution in the premises.

SEC. 265. If lands so required by a school district are encumbered by a mortgage, the school district shall cause the same notice to be given to the mortgagee, or the assignee of the mortgage, required to be given to the owner; and the damage agreed upon, or otherwise determined, as specified in this chapter, shall be

paid to the mortgagee or his assignee; but if the sum due on the mortgage is less than the damage, the amount due on the mortgage shall be paid to the holder, and the balance to the owner.

SEC. 266, When the damages finally awarded for lands so taken by a school district are paid to the persons entitled thereto, a valid title to such lands shall vest in the district for the purposes aforesaid.

SEC. 267. A school district may, by a two-thirds vote, if such vote represents a majority of the grand list of the district, sell its schoolhouse and the land connected therewith; and the names of those voting for the sale shall be taken and recorded.

CHAPTER XIV.

ALTERATIONS IN SCHOOL DISTRICTS.

SEC. 268. A town may, by vote in annual town meeting, divide, unite, or otherwise alter, its school districts. But no alterations shall be made except such as are plainly set forth in the warning for said meeting.

SEC. 269. When the Selectmen of a town receive a report from the Supervisor of Schools recommending alterations in the school districts of such town, they shall insert in the warning for the next annual meeting such articles as will enable the town to act upon such recommendations.

SEC. 270. Three voters in a fractional district residing in the same town, or one voter if so many as three do not reside in that town, may apply in writing to the Selectmen of each of the towns from which said district is formed, to insert articles in the warnings for the next annual town meetings to have such district dissolved; and the Selectmen of each of said towns shall insert such articles in said warnings. At such meetings each town shall vote upon the question whether said district shall be dissolved, and the district shall be dissolved if each town so votes.

SEC. 271. If the votes of the towns are not concurrent, three voters, or one in the case above provided, may apply to a judge of the County Court of the County in which the schoolhouse is located, who shall appoint three justices of the same County, not inhabitants of either town in interest, to decide the matter. Such justices shall, if it seems to them expedient, order such district to be dissolved, and shall make and file a certificate thereof in the office of the Town Clerk of each town interested, to be recorded; and shall order a distibution of the property belonging to such district, to the inhabitants thereof residing in the several towns, and may order the payment of such damages by or to the inhabitants of either town, as are just.

SEC. 272. The inhabitants of each town, after a separation, may organize themselves into

a school district, and may receive, recover and take care of such damages as are awarded them.

SEC. 273. When a school district is divided into two or more districts, by vote of the town or towns in which it is located, and said districts cannot agree upon a division of their corporate property, the clerk of the district so divided shall, or in his absence, or inability, or refusal to act, a taxpayer in either portion of said district may apply to the assistant judges of the County Court of the County in which the school-house is situated.

SEC. 274. The judges shall, upon such application, post upon the school-house in the original district, and in one other public place in each of the said new districts, at least twenty days prior to the time set for hearing, stating the time when and place where they will examine the property and hear the parties interested, and upon such hearing shall make a just division of the property and assets of such original district, including taxes voted but not collected between said new districts.

SEC. 275. When the property of such district is such that it cannot be divided between the new districts, said judges may sell the same and execute therefor deeds and writings necessary for a proper transfer thereof, and such deeds and writings, when recorded in the Town Clerk's office of the town where such property is situated, shall pass the title thereof to the

purchaser, and the judges shall make a just division of the proceeds of such sale between the new districts.

SEC. 276. When a part of the property of the original district consists of a school-house or other buildings, or buildings and lands, which can be used beneficially by one of the new districts, said judges may set the same to the new district in which the buildings or land are situated, and may assess upon the district to which such buildings and lands are set such sum therefor as appears just, and may order the same to be paid to such other new district or districts, in such time and manner as they direct.

SEC. 277. If the district so assessed shall, for six months, neglect to pay to the district entitled to the same so assessed and ordered to be paid, the district to which said sum is awarded may recover the same, in an action on the case, founded on this statute.

SEC. 278. If either of said judges resides or owns real estate in such divided district, he shall not act, and the other of said judges shall have the powers and perform the duties provided for both of said judges.

SEC. 279. When said judges have completed such division, they shall make return of their doings to the Town Clerk of the town or towns in which the original district is located, stating the property divided, the manner of the division and the names of the persons to whom sold;

and when the same consists of real estate, it shall be described by metes and bounds; and the return shall be recorded in said Town Clerk's office.

SEC. 280. The charges of the judges in making such division shall be borne by such new districts in such proportions as the judges determine and certify in their return; and each of such districts shall be liable to pay the sum so certified, to be recovered in the names of the said judges in an action on the case founded on this statute.

SEC. 281. No alteration in or union of school districts shall dissolve or merge such districts until the debts and liabilities due to or from such districts have been settled and paid. Rights of action in favor of or against such districts may be enforced as though such school districts had not been changed, and the officers of the district at the time of such change shall continue in office with such powers as may be necessary in respect to the service of process, calling district meetings, settling claims in favor of and against the district, levying, assessing and collecting taxes to pay liabilities, and fully closing up the concerns of such districts, until all debts and claims of such districts are settled and paid.

CHAPTER XV.

TEMPORARY PROVISIONS. REPEAL.

[SEC. 282 stricken out.]

SEC. 283. The first public examination of teachers in the year one thousand eight hundred and eighty-nine shall commence on the third Tuesday in April, instead of on the third Tuesday in March, as would otherwise be required by Section 46 of this act.

SEC. 284. The selection of text-books heretofore established for a term of years, ending on the first day of November, one thousand eight hundred and eighty-nine, shall continue in force until the first day of July, one thousand eight hundred and ninety, if the publishers of such books shall continue to furnish them under the arrangements made at the time of their selection. In case of any failure to supply such text-books until such date, the Supervisor of Schools may make temporary selections, which shall be valid in his country until such date.

SEC. 285. The school year which commenced on the first day of April, one thousand eight hundred and eighty-eight, shall be held to continue to and expire on the thirtieth day of June, one thousand eight hundred and eighty-nine.

SEC. 286. The Superintendent of education shall prepare and distribute such supplemental registers as may be needed to record the attend-

ance of pupils to the end of the school year as above established.

SEC. 287. All persons holding School District offices at the time of the passage of this act shall continue in their several offices until the last Tuesday in June, one thousand eight hundred and eighty-nine, and until their successors are chosen.

SEC. 288. The current and remaining years of the terms of office of School Directors in towns having the town system, shall be held to continue to and expire upon the first day of July.

SEC. 289. Teachers' certificates granted by Town Superintendents during the year one thousand eight hundred and eighty-eight shall remain in force until the first day of December, one thousand eight hundred and eighty-nine, unless sooner revoked as provided by law.

SEC. 290. Section two thousand six hundred and fifty-eight of the Revised Laws is hereby amended by striking out the words: "A Superintendent of Schools, except in towns using the town system."

SEC. 291. Sections of the Revised Laws, four hundred and fifty-eight, four hundred and fifty-nine, four hundred and sixty, as amended by number thirty-one of the acts of 1886, sections four hundred and sixty-one, four thousand five hundred and forty, as amended by number one hundred and seven of the acts of

1882, and sections four thousand five hundred and forty-one are hereby repealed, such repeal to take effect on the first day of July, one thousand eight hundred and eighty-nine.

SEC. 292. After the first day of July, one thousand eight hundred and eighty-nine, the duties to be performed by Town Superintendents under the provisions of sections four hundred and sixty-seven to four hundred an seventy, inclusive, of chapter twenty-eight of the Revised Laws, shall be performed by the Supervisors of Schools for all the towns of their several counties.

SEC. 293. Chapter twenty-nine of the Revised Laws is hereby repealed; but the repeal of sections four hundred and ninety-seven and four hundred and ninety-eight, of said chapter shall not take effect until the first day of April, one thousand eight hundred and eighty-nine; and the provisions of sections sixty-four of this act shall be held to apply to Town Superintendents until the above date.

SEC. 294. The following chapters and sections of the Revised Laws are hereby repealed: Sections four hundred and fifty-two to four hundred and fifty-seven, inclusive, chapters thirty, thirty-one, thirty-two, thirty-three, thirty-four, thirty-five, thirty-six, thirty-seven, thirty-eight, thirty-nine and forty.

SEC. 295. The following acts of the General Assembly are hereby repealed: Of the laws

of 1882, numbers nineteen, twenty, twenty-one, twenty-two, twenty-three, twenty-four and twenty-five; of the laws of 1884, numbers twenty-eight, twenty-nine, thirty, thirty-one, thirty-two, thirty-three, thirty-four, thirty-five, thirty-six, thirty-eight and forty; of the acts of 1886, numbers twenty-four, twenty-five, twenty-six, twenty-seven, twenty-eight, twenty-nine, thirty, thirty,two, thirty-three and thirty-four.

SEC. 296. This act shall take effect from its passage.

Approved November 27, 1888.

PART SECOND.

INTRODUCTION.

THE object of this Manual has already been sufficiently set forth in the Preface, but a few general remarks on the theory of our school system may not be out of place at this time. It would be an agreeable task to review the history of public education in the United States, but space and occasion compel us to forego the pleasure. Our work is to be confined as closely as possible to the discussion of the law of schools, references being made to the theory of education only as circumstances demand.

The control of educational matters is left with the States as one of their domestic powers; but though managed by individual States, a general uniformity is found in their public school systems. The prime idea of our educational system is to make the common schools the schools of the people, to provide the same instruction for the children of the rich and of the poor, to qualify the children of foreign parentage for intelligent citizenship by giving them access to to the same educational fountain—in short, to

make us a nations of equals by eliminating from our early education all distinction of rank and riches. The hope of our country is centered in its common schools, and it therefore becomes the duty of every true patriot to preserve intact the principles of our national safeguard.

Our system of common schools is essentially democratic; the interests of the majority must always prevail over those of the minority. The interests of the minority are really those of the majority, regardless of apparent difference.

The right to attend public schools is uniform, but not unlimited, a privilege enjoyed by all upon the same conditions and subject to the same limitations. The same principle that regulates society applies in the affairs of the school: When in the enjoyment of personal freedom the same enjoyment on the part of another is prevented, the personal freedom insured by the constitution has become personal injustice. So in the schools the rights of one person end where those of another begin. A thorough understanding of this principle of personal liberty will be a great help to us in comprehending many of the difficult questions to be discussed in the following pages.

School law consists of two kinds, Statute Law, and the decisions of the Courts, or Common Law. To settle any legal questions we should first consult the statutes. If we find no statute touching the question, we appeal to the reports of the Supreme Court. If a decision

has been made by the Court, it will be the law on that question. In case no State decision can be found, we finally resort to the decisions of other States. The common law of another State is not necessarily our common law, but State comity leads our courts to adopt the decision made by the courts of other States, if they are reasoable and do not work injustice. We shall, therefore, place dependence upon the decisions of other States only when they explain a question not yet settled in our own State.

There are two kinds of schools, public and private, differing in the laws under which they are organized, and in the manner in which they are supported. Public schools are provided for by the statutes and are essentially compulsory. Private schools, if incorporated, are sanctioned by a special act of the Legislature, but are supported wholly by private funds. Money raised taxation cannot be appropriated to their maintenance. Nearly all our higher institutions of learning are of the latter class, while private instruction in the rudimentary branches has always been unpopular with the thinking men and women of this country. The law applying to public and private schools is the same so far as relates to the discipline of the school, Kidder *v.* Chellis, 59 N. H., 473.

In the following pages, references to Part I. will be made by sections. Figures with or without the abbreviation "Sec." refer to sec-

tions in the "School Act." References to other parts of the book or to other books will readily explain themselves.

CHAPTER I.

ORGANIZATION AND SUPPORT OF PUBLIC SCHOOLS.

1. Organization of School Districts.—The constitutional authority for the maintenance of public schools is found in section 41 of the State constitution, which declares, among other things, that "a competent number of schools ought to be maintained in each town for the convenient instruction of the youth." Every town must support at least one school for the free instruction of pupils between five and eighteen years of age, (150). When, for any reason, it becomes inconvenient for the inhabitants of a town to have but one school district, the town shall call a meeting to consider the division of the town into several districts, (66). If the interests of public instruction demand it, they shall make the division, which must be determined by metes and bounds, 8 Vt., 402; 33 Vt., 221; 10 Vt., 480; 21 Vt., 407; 25 Vt., 311; 7 Vt., 471. The town shall number the districts thus formed, and the number becomes thereby the legal name of the district, which will be capable of transacting business when

duly organized. A record of the division of the town, the limits assigned to the districts, its number, and alterations afterwards made, must be made in the Town Clerk's office, (68).

The limits of the district must be clearly defined. It has been decided that it is a sufficient description of a school district by geographical limits, to define it as made up of certain persons and the farms on which they reside, Moore *v.* Beattie, 33 Vt., 219. But it was decided in Gray *v.* Sheldon, 8 Vt., 402, that a vote to "set" a certain man to a named district would not transfer him and his farm to that district. The district is determined by geographical limits and the vote should have been to transfer him and his *farm* to that district. It is not necessary that the territory be "connected, contiguous territory," Weeks *v.* Batchelder, 41 Vt., 196.

When a vote has been duly carried establishing a new school district, the district corporation may be organized under the provisions of section 69. In order to establish a school district several steps are necssary, all of which must be duly observed. An article must be inserted in the warning of the town meeting clearly specifying the question to be considered. The vote in the town meeting must define the geographical limits of the proposed district and must specify the number by which the new district shall be known. When the town has so acted, three voters of the proposed district may

petition the Selectmen of the town, or if the district is fractional, the Selectmen of either town, who shall take measures to organize the district. The Selectmen shall call a meeting in such district by posting notices, specifying the time, place and business of the meeting in two of the most public places in the district, at least seven days before the time of the meeting. One of the Selectmen shall preside at the meeting until a moderator and clerk are chosen, when the district shall be held to be organized. When lawfully organized, a school district shall be a body politic and corporate, with the powers of a corporation for maintaining schools in such district, (71.) As has been said, a record of the organization must be made in the Town Clerk's office, which will be evidence of the organization. If a school district had maintained its existence for a long time, say fifteen years, it would be considered sufficient evidence of its regular organization, though the records of both town and district fail to show the fact, 34 Vt., 156; 6 Vt., 388; 30 Vt., 273.

A suspension of all the functions of a school district for ten years does not necessarily prove the dissolution of the district. In such a case it may be reorganized with the consent of the town, without a vote of the town setting it off anew as a school district, 16 Vt., 439. If the district neglects to provide the instruction required by chapter V. of the school act, the offices of the district will become vacant upon

the proper action being taken by the selectmen, (113, 114). The organization of the district is not, however, affected and the district may elect officers at the next annual meeting. Failure to provide such instruction will not of itself cause a vacancy in the offices. The selectmen must act in order to vacate them.

Fractional Districts.— The method of organizing a fractional district differs somewhat from the rule just given. Sec. 67 provides as follows: Adjoining towns may, by concurrent votes, form a school district comprising parts of such towns. A district so formed shall be called a fractional district and shall be held to belong to the town and county in which the schoolhouse is located. If the schoolhouse is located upon the dividing line between the towns, such district shall be held to belong to the town having a plurality of children of school age in the district, and to the county in which such town is situated. Whenever the term "fractional district" is employed it must be taken, according to Sec. 67, to mean a district formed by the concurrent votes of two or more towns; and it implies a union of territory situated in two or more towns. If a transfer from a district in one town to that of another is made under the provisions of Sec. 72, the district would not be considered fractional and would be subject to none of the special provisions relating to fractional districts except in the division of public money, which will be noticed

in considering that topic. The transfer under that section (72) is made by the vote of the town from which the person is set without the concurrent vote of the other town, but with the consent of the district to which the transfer is made. "Persons so set to a school district shall have all the rights and shall be subject to the same liabilities as the other inhabitants of the district, *and as to district taxation shall be treated as belonging to such district.*" The person, so far as school matters are concerned, is considered as belonging to that district, for the time being; but the district, territorially, is not thereby changed. Such arrangement is a simple privilege, liable to be revoked at any moment by either party, (the town or the district), and in this respect differs from a district formed of territory and inhabitants belonging to adjoining towns, Hewitt *v.* Miller, 21 Vt., 402. The district may refuse to consider such person a member of the district and thus force him to return to his former district, or the town may vote to set him back and thus put an end to his connection with the district. The person could not, of his own choice, determine which school he would support, but must ask the town to set him back, if he wishes to return to his own district.

Alteration of School Districts.— A town may, by vote in annual town meeting, divide, unite, or otherwise alter, its school districts. But no alterations shall be made except such as

are plainly set forth in the warning of said meeting (268). Under the new law it becomes the duty of the supervisor of schools to recommend to the towns such alterations as seem desirable and "the selectmen shall insert in the warning for the next annual meeting such articles as will enable the town to act upon such recommendations" (209). What has already been said concerning geographical limits in organizing districts applies with equal force to their alteration. The vote to alter school districts must state definitely the proposed change in the limits of the district. For example, a vote to set A B into a certain district is not sufficient to transfer him and his farm to that district, 8 Vt., 402. A vote to transfer a farm from one district to another takes effect from the time of the vote, if no other time is specified, Ovitt *v.* Chase, 37 Vt., 196.

Questions under this topic would generally arise concerning the legality of the article in the warning. The following cases will throw light upon this important question. An article was inserted in the warning of a town meeting "to see if the town will make alterations in school districts when met." The court decided that the notice was sufficient to warrant a consideration of any proposed change in the limits of the school districts, and to authorize a vote setting a person and his property from one district to another, 37 Vt., 196; 33 Vt., 219; 41 Vt., 317; 46 Vt., 19. The warning of a

town meeting was: "To see if said town will vote to accept and adopt the report of the committee to alter school districts." It was decided that the town could make no alterations except those proposed by the committee in its report. A vote to make any other alterations would be void. Wyley *v.* Wilson, 44 Vt., 404.

An article in the warning of a town meeting was, "To see if the town will divide district No. 10, and annex a portion of it to district No. 4, and the remainder to district No. 5." The town voted to set the whole of district No. 10 to district No. 4, and the court decided that the warning authorized such a vote, Moore *v.* Beattie, 33 Vt., 219. The warning of a town meeting was, "To see if the town will vote to divide school district No. 9, and to make such other alterations in school districts as may be found necessary." The town voted to form a new district of a portion of district No. 9, which the courts considered authorized by the warning, Weeks *v.* Batchelder, 41 Vt., 317.

It was voted in a town meeting duly warned, "to unite school district No. 5 to school district No. 4, and constitute them one district." The courts decided that the vote had the effect of abolishing No. 5 and annexing the territory of which it had been composed to No. 4. The latter district continues in existence as before, only enlarged by this transfer; and a warning for a school meeting in No. 4, posted before the territory was annexed, can be acted under after

the annexation. Greenbanks *v.* Boutwell, 43 Vt., 207. On the other hand a town voted "to unite school districts No. 4 and No. 12 into one district, to be called No. 4." It was decided that both districts were thereby abolished and a new district formed, distinct from either, and that a new organization would be necessary. Barnes *v.* Ovitt, 47 Vt., 316. The difference is apparent. In the first case, district No. 4 was not abolished, but simply enlarged by annexing territory from No. 5. It was the same as though only one farm in No. 5 had been transferred. In the other case both districts were abolished and a new district formed by union of the territory formerly including the discontinued districts. The fact that they voted to call the new district No. 4, the name of one of the old districts, would not change the legal effect of the vote. If in dividing a school district, any officer of the district is an inhabitant of the part set off, that office would be considered vacant. Officers of a school district must be residents of the district, except in the case of collector of school district taxes. By special provision of the statutes, the town collector, though not a resident of the district, may hold the office of school district collector, (77.) Stevens *v.* Kent, 26 Vt., 503.

Alterations in fractional districts present some differences. Being formed by the mutual consent of the towns, they cannot be abolished without their mutual consent, except as pro-

vided in section 271. Alterations in the limits of districts of this kind may be made by the mutual consent of the fractional district and the town within which the territory sought to be transferred is located. Such consent may be shown by vote of the district, 23 Vt., 626, or by long acquiescence in the action of the town, 34 Vt., 384; 34 Vt., 156.

For the disposal of school property when school districts are dissolved, see sections 273–280.

2. *Support of the Public Schools.*—The common schools of the State are supported by the income of public funds held by the towns or by the State for school purposes, and by school taxes assessed upon the grand lists of the several school districts. The first means of support will be considered at length in the chapter on Public Money.

The authority to lay and collect taxes for domestic purposes is derived from the state and is granted by act of the legislature. The authority to assess taxes for school purposes is granted to the districts by chapter 12 of the school acts and can be lawfully exercised only in behalf of a public purpose. Taxation to support common schools is for a public purpose, and the courts have repeatedly held that public education is an appropriate object of taxation, Williams *v.* School District, 33 Vt., 271. Money raised by public taxes can not be used to aid in the support of private or secta-

rian schools. It is not a public purpose in the spirit of the law.

Sec. 201 provides that a school district may, *by vote*, raise a tax upon its list for the support of schools therein; and all expenses incurred by a district for the support of schools in excess of public moneys received by the district, shall be so defrayed. Taxes may be assessed for all lawful expenditures of the district; but a tax assessed for any illegal purpose, as to pay a teacher who was not properly licensed to teach, would be null and void and could be enjoined by a taxpayer of the district. The prudential committee is the only person authorized to assess a tax (202), and he has no authority to proceed unless such tax be first voted by the district, Brown *v.* King, 34 Vt., 156. It has been decided that a vote to sustain a school a certain length of time, no special words being included to empower the assessing of a tax, would not justify the assessing of a tax by the prudential committee. He must be expressly directed to assess such tax, Adams *v.* Crowel, 40 Vt., 31. Voting a tax can not be implied from any other vote. It is not necessary to limit the amount of tax to be raised. A vote to raise a tax to pay for repairs of the school-house, or to pay the expenses of the school, is valid without naming the amount to be raised or the rate per cent upon the list; and the committee is authorized, under such vote, to assess a tax for an amount found necessary, Adams *v.*

Hyde, 27 Vt., 221; Chandler *v.* Bradish, 23 Vt., 416; Brown *v.* Hoadley, 12 Vt., 472.

If a vote is taken to raise a sufficient sum to defray the expenses of the district, a sum considerably larger than necessary could not legally be assessed, 57 Vt., 31. A school district voted to pay the expenses of the school with money drawn from the town, and the balance, if any, on the grand list of the district. It was held not a fatal objection to the tax bill that the tax exceeded the sum required by $1.03. Judge Redfield said, in giving the opinion of the court: "It is, of course, impossible to know how large a part of the tax will fail of collection, and it must, of necessity, be somewhat larger than the sum required," Chandler *v.* Bradish, 23 Vt., 416. A special committee, as a committee to build or repair a schoolhouse, has no authority to assess a tax voted for such purpose. It must in all cases be done by the prudential committee (202), Johnson *v.* Saunders, 34 Vt., 94.

The tax is, as has been said, assessed upon the grand list of the district (200). All property, real and personal, subject to taxation should be set in the list of the district within which it was situated on the first day of April, Ovitt *v.* Chase, 37 Vt., 196. Property that was properly listed in the district should be assessed although it has been removed from the district before the tax is voted, and a resident of a district on the first day of April removing from the

district or from the State remains taxable in that district on a list of that date, Woodward *v.* French, 31 Vt., 337; Walker *v.* Miner, 32 Vt., 769. A list begun April 1st must be completed on or before May 15. Between March 1 and May 15 there is then, no legal list. The statutes provide that a tax voted after March 1 shall be assessed on the list to be completed in the following May.

With reference to partnership property it has been decided that all *personal* property of a partnership should be designated in the grand list as in the school district where a portion of it was actually situated, where a majority of the partners resided, and where the business was carried on, — "the business domicile of the firm," Fairbanks *v.* Kittredge, 24 Vt., 9. In case *lands* are set in the wrong district it is not conclusive upon the owner or upon the school district for purposes of taxation, if the town records furnish the necessary means for correcting the error, Ovitt *v.* Chase. If land situated in district No. 1 was set in the grand list as situated in district No. 2, it should be taxed in No. 1. The listers of the St. Johnsbury set property in the list as belonging in district No. 2 which belonged in district No. 1, whereby the latter district was deprived of the right of assessing taxes upon such property. The listers refused to correct the list and were *held* liable to district No. 1 for the damage thus sustained,

School District, St. Johnsbury *v.* Kittredge, 27 Vt., 650.

Taxes may be voted and legally assessed for the necessary expenditures of the school. The question arises on the meaning of the word "necessary." The tendency at the present time is toward a liberal construction of the statutes relating to school matters. Taxes raised for a reasonable purpose undoubtedly would be considered of such a nature as to come under the necessary expenditures of the district for which a tax may legally be assessed.

Exemption from Taxation.—Section 270 of the Revised Laws of the State of Vermont provides, among other things, that "real and personal estate granted, sequestered or used for public, pious or charitable purposes, lands leased by towns for educational purposes, and lands owned by colleges, academies or other public schools, shall be exempt from taxation." All school property is of that public character that exempts it from taxation. Exemption from taxation is so contrary to the spirit of our institutions that it can never be implied but must always be expressly provided for by statutes, and statutes so providing must be construed strictly. In order to exempt from taxation it is generally necessary that the property be actually used for educational purposes. It has been decided by the Supreme Court of the United States that an exemption of all property "necessary for school purposes" includes property

not in actual use by the school, but which is rented and the income applied to the support of the school. School lands in the several towns, the rental of which is devoted to school purposes, are exempt from public taxes on this ground. Exemptions are not generally intended to include private schools operated for individual profit, nor property used for the support of such private institutions. A building used in part for public purposes could not be exempted because there can be no separate assessment for the part not used for school purposes. By Sec. 205 it is provided that the district, by a two-thirds vote, may exempt a taxpayer of the district who is deemed not able to pay his tax.

CHAPTER II.

SCHOOL MEETINGS AND ELECTION OF SCHOOL DISTRICT OFFICERS.

The annual school meeting *must* be held on the last Tuesday in June, and special meetings may be called at any time by a proper warning. The first essential to a legal school meeting is a sufficient warning, which warning must be posted in two conspicuous places in the district at least seven days before the time of meeting. In computing the time from the date of the notice to the time of the school meeting, either the day of the date of the notice or the day of the meeting will be counted. A notice dated

on the first day of the month for a meeting on the seventh would not be sufficient. Warnings for school meetings should be made by the Clerk, but in his absence or neglect the duty devolves upon the Prudential Committee.

There are several ways in which a notice may prove insufficient. It may not have been posted a sufficient length of time, or it may not state with sufficient exactness the purpose of the meeting. A warning should be so clearly drawn that the inhabitants of the district may fairly understand the purpose for which they are convened, Weeks *v* Batchelder, 41 Vt., 317; Moore *v* Beattie, 30 Vt., 219. A notice must also state explicitly the time and place of meeting as well as the purpose of the meeting. Any irregularity in calling the meeting will invalidate the proceedings. The doings, however, of an officer elected under such irregular notice would be binding upon the district as to third parties (See De Facto Officers). But a tax raised to defray district expenses by an irregular process is not a valid tax, neither can a *de facto* Prudential Committee assess a valid tax, Woodcock *v* Bolster, 35 Vt., 632. If an adjournment is made to some future day, the hour of meeting must be specified in the adjournment or the adjourned meeting would be irregular, 43 Vt., 207.

Voters in School District Meetings. — Section 91 provides that, "persons residing in a School District and qualified to vote in town

meeting, shall be voters in School District meetings." Section 2644, Revised Laws of Vermont defines voters in a town meeting as follows: "Male citizens, 21 years of age, whose lists are taken in any town at an annual assessment next preceding a town meeting, or who are exempt from taxation for any cause, shall, while residing in such town, be voters in town meetings." By Section 92, "Women have the same right as men to vote in School District meetings, and in the election of School Officers in towns and cities; and the same right to hold offices relating to school affairs, except in cases where it may be otherwise provided." Consequently, any man or woman, 21 years of age, who has a grand list in town taken at the annual assessment preceding the meeting, and who, at the time of the meeting, resides in the district, would be a legal voter in such meeting and legally qualified to hold any school office in the town or district. This includes unnaturalized foreigners subject to the same qualifications as American born citizens. Woodcock *v* Bolster, 35 Vt. 632, contains a lengthy discussion of the question of the qualification of voters in Town and School district meetings, to which the more inquisitive are referred. In the discussion of this case, the court rendered the following decision: "It is not a requisite qualification of a voter or office holder in a Town or School District that he be a freeman; a man foreign born and not naturalized may en-

joy such privileges." The decision is a just one, as the unnaturalized parent has even more need of the benefits of a common school than his native born neighbor; and he will be more interested in its support, if he can direct the affairs of the school in common with the freemen of the district. The danger of intrusting an American institution to a foreigner who has cast his lot with us is strongly over-balanced by the increased benefit accruing to him.

When questions arise as to what the action of the district was at a meeting, the proceedings are determined by the record, when it can be produced; and the legal effect of a record and a vote cannot be enlarged, restricted, or explained away by parol, or controverted by evidence of what the voters at the meeting intended to do, or by what they supposed they had done, 40 Vt. 31; 42 Vt. 507. Nor will it alter the case if the vote has been passed by such as are not legal voters, 43 Vt. 362. The time to determine upon the legality of voters is at the time of the vote's being taken. Section 91 provides for a board of decision upon such questions to consist of the Moderator, Clerk, and members of the Prudential Committee.

School meetings are not so bound by parliamentary rules that they are prevented from voting, at the same or an adjourned meeting, to do something contrary to a vote already taken without rescinding the first vote, 23 Vt. 207.

The district may at a meeting adopt rules to regulate the meeting contrary to the laws governing deliberative bodies, although it is customary to observe parliamentary rules. A vote to do any act fails if there is a tie vote. A vote to adopt the town system, under an act requiring each town to vote on the question at its annual meeting, failed upon a tie, and could not afterwards be reconsidered, 57 Vt. 694.

Election of Officers. — Section 73 provides that "a school district shall, at its organization, and at each annual meeting thereafter, elect from among the legal votes of the district a moderator, clerk, etc." As has been said, the annual meeting is held on the last Tuesday in June. In regard to the time of elections, the statutes are imperative; the election *must* be made at the annual meeting, except in cases of special elections to fill vacancies. If for any reason a district fails to elect its officers at the annual meeting, the old officers will hold over till the next annual meeting. Should such officers or any of them refuse to serve, their offices would thereby become vacant, which vacancies may be filled by the selectmen, or by a special election under the provisions of Section 88. Whenever a vacancy is filled by the Selectmen, the appointment is made subject to any action the district may afterwards take in regard to the matter. Officers elected at any other time than the annual meeting, except to fill vacancies, could not be considered *de facto*

officers. Officers regularly elected will hold their offices till their successors are properly chosen.

Elections are generally conducted after the plan of elections in town meetings; and officers may be chosen by a *viva voce* vote, or by ballot, if any voter calls for such a vote. Any irregularity in the election of officers will not vitiate the result, providing the irregularity did not change the result. In an election the wish of the majority should be respected though irregularly expressed. A majority of all the votes cast is not requisite to the choice of an officer, except when made so by express statutory enactment. Where there is no positive statute to the contrary, a plurality of the votes cast will suffice to elect. Cooley on Constitutional Limitations page 619.

Who are illegible to school offices? Section 73 provides that the officers shall be elected from among the legal voters of the district. We have already considered this question quite fully in treating of School District meetings, to which reference is made. No distinction is made between unnaturalized foreigners and native citizens. The test is residence in the district and a grand list made at the previous assessment. Women, also, may hold office in a School District, or office, in a town, relating to schools, on the same condition that apply to men.

CHAPTER III.

SCHOOL OFFICERS.

1 United States Commissioner of Education.—2 State Superintendent.—3 County Supervisor.—4 Prudential Committee.—5 Clerk.—6 Treasurer.—7 Collector.—8 Auditors.—9 Moderator.—10 County Board of Education.—11 De Facto Officers.

It is not purposed in this chapter to enter upon a consideration of the minute details of the rights and duties of school officers, as such an undertaking would occupy too much space and cannot be considered as properly within the province of a school manual. It rarely happens that a knowledge of the technicalities of the law is demanded to perform the routine duties of school officers; therefore, to introduce such questions here would tend to complicate a subject that we aim to simplify. For easy reference, the powers and duties of the different officers will be taken up separately. With respect to School District officers, this general principle must always be kept in mind. They are public officers, receiving their authority from the statutes, and, as such, cannot be controlled, in performing their statutory duties, by a vote of the district.

1. Commissioner of Education. — Congress, by an act of March 2, 1867, established a Bureau of Education "for the purpose of collect-

ing such statistics and facts as shall show the condition and progress of education in the several states and territories, and of diffusing such information respecting the organization and management of school systems and methods of teaching as shall aid the people of the United States in the establishment and maintenance of efficient school systems, and otherwise promote the cause of education throughout the country." As will readily be seen, this officer has no direct control or supervision of our schools, as they are entirely a state institution; but his duties are, nevertheless, important. He is required to familiarize himself with the state of education in the country and to advise with the School Officers of the several states for the improvement of the public schools.

2. *State Superintendent of Education.* — The State Superintendent is the highest executive officer of our common school system. The supervision of the individual schools is not expected of him, but is intrusted to the County Supervisors, who are required by the statutes to execute the orders of the State Superintendent. He is required to devote his whole time to the study and improvement of the schools of the state. His influence in the upbuilding of the schools is mainly felt through teachers' institutes He shall hold such institutes, not exceeding two in any county during his term of office, at which instruction shall be given to the teachers in the methods of teaching and in other mat-

ters of importance in connection with the schools. It is also his duty to advise with the Supervisors of the several counties for the improvement of the schools under their supervision. On all questions effecting the schools of the state, information may be procured of the County Supervisor, of the State Superintendent; and in some instances it would appear that appeals may be taken to him from the decisions of the County Supervisor. Questions for examinations are made out by the State Superintendent and the standard of proficiency in examinations is fixed by him. The County Supervisor is required to place examination papers on file subject to the inspection of the State Superintendent. For further information the attention is called to Chapter I. of the School Acts.

3. *County Supervisor.* — While the office of County Supervisor is new to our school system and many questions that may arise in connection with this office have not been definitely passed upon by our Supreme Court, the office is well known in many of the states and the rights and duties of the Supervisor have, as a general rule, been clearly defined. Chapters II and III of the school law detail the rights and duties of this officer in this state and should be studied thoroughly by teachers and all having to do with our common schools.

The Supervisor stands between the State Superintendent and the School District authorities. He reports the condition of the schools

under his supervision and executes the plans of that officer for the improvement of the schools. So far as the State Superintendent has not provided regulations for the improvement of the schools, it is the Supervisors duty to take charge of the matter. In case, however, his authority conflicts with that of the State Superintendent, he must yield to the Superintendent. It is his duty to see that the requirements of the law are strictly observed by the School District Officers, and shall give advice on all questions in connection with school work. He shall encourage all matters of education and may hold public meetings for that purpore. He shall form teacher's associations when practicable, and also informal meetings of the teachers for mutual aid. Section 31 provides that when ten teachers shall meet upon any Saturday during term time or upon any two successive days during vacation, excepting in the months of July and August, and desire the presence and instruction of the Supervisor, it shall be his duty to attend and to give such instruction, if the duties of his office will permit. He is given authority to compel teachers to attend and take part in teachers' meetings (33). With reference to examinations, granting of certificates and visitatoin of schools his duties are similar to those of the *town superintendents*. The requirement that he oversee the minor matters of the schools under his supervision is, however, more imperative, as may be seen by comparing

the duties of the old Superintendent with those of the present Supervisor. Section 23 provides that the Supervisor of Schools shall have *immediate* supervision of the schools of his county. The corresponding section of the old law required the Superintendent to visit each school at least once a year.

School District Officers. — Section 73 provides as follows: "The School District shall at each annual meeting, elect from the legal voters of such district a Moderator, Clerk, Collector, Treasurer, one or three Auditors and a Prudential Committee of one person, unless the district shall vote to have the Prudential Committee of three provided for in Section 74. The question of the election of School District Officers has already been considered. Let us suppose that the officers have all been regularly chosen and are ready to perform their several duties. With this assumption we will proceed to consider the rights and duties of School District Officers. Their duties are made quite plain by the provisions of Chapter IV of the school acts, consequently space will be taken to review and consider at length those duties only which are most closely connected with the interests of the schools.

4. *Prudential Committee.* — The Prudential Committee is the chief executive officer of the district. His authority as such officer is in a certain sense dual. He is elected by the peo-

ple of the district as their representative in matters pertaining to the schools, but he is not their agent in such a way as to be controlled by them in the performance of his duties. He has become, as we have said, a public officer and must be guided by the statutes, irrespective of votes of the district.

Sections 82–87 contain the statutory provisions relating to the control of the schools. In addition to this, there is a large number of decisions in the common law of the state, touching upon the powers and duties of the Prudential Committee. Our aim will be to study the statute law as it is explained and amplified by these decisions. Let us observe first his duties with reference to school property.

Section 82 provides: "The Prudential Committee shall have the care of the school-house and grounds, and shall keep the same in good order, and if there is no school-house shall provide a suitable place for the school; and he shall see that fuel, furniture and all things necessary for the school are provided."

As a general rule school property cannot be used for any other purpose than for secular education; but in Vermont the construction of the rule has always been liberal. Section 84 provides that if the district has not voted to restrict the use of the school property, "the Prudential Committee may permit the free use of the schoolhouse for religious meetings, lectures, music schools, kindergarten schools and

like purposes, when such use will not interfere with the schools or meetings of the district." The control of the school-house is thus left somewhat to the discretion of the Prudential Committee who, it is presumed, will act reasonably in the matter. It would seem, however, if the Prudential Committee had granted permission to use the school property for any of the purposes specified, and for a certain length of time, that he could not, at pleasure, prevent the free enjoyment of the right. Russell *v* Dodds, 37 Vt., 497, under the clause, "he shall see that fuel, furniture and *all things necessary* for the school are provided," some doubt may arise as to what would be considered necessary furnishings for the school. It might depend somewhat upon the circumstances of the case; for expenditures that would be perfectly proper in a large and wealthy district might be unreasonable in a small district with limited means. With reference to this matter, it is the opinion of the State Superintendent that maps, charts, globes, dictionaries, demonstration blocks and such like material would be considered necessary for the advancement of educational interests and may be purchased by the Prudential Committee under the authority delegated in this section. This opinion is the only reasonable one when we take into account the present condition of educational methods. It would be a narrow view of *necessity* to brand the locomotive, the telegraph and the printing

press as *luxuries* of our civilization. It would be equally unreasonable to classify the necessities of school work according to the primitive methods of the schools that our fathers attended. So far as providing suitable furniture and making necessary repairs upon the buildings or grounds there can be no question. It is plainly the duty of the Prudential Committee to provide such furniture and repairs as are necessary to the comfort and accommodation of the school.

It is also the duty of the Prudential Committee to employ a teacher to instruct the school. Section 83 reads: "The Prudential Committee shall employ a teacher to instruct the school, and may remove him when necessary; and he shall adopt requisite measures, not in conflict with those of the Supervisor of Schools, for the inspection, examination, regulation and improvement of the school." By this provision the whole control of the school naturally belonging to the people of the district is vested in their Prudential Committee. He is expected to take the schools under his personal supervision, to advise with the teacher in regard to matters of method and discipline, and, finally, to make personal visits and examinations to ascertain if the school is properly taught and governed. The committee's power to contract with the teacher is not derived from the district as a mere agent, but is a statutory requirement. For this reason he is not bound to follow direc-

tions given by the district. "Although the district votes to instruct the committee to employ a female teacher, it does not bind the committee to do so. It is simply advisory." 56 Vt. 556. It might be prudent to follow the directions of the district if they seem advisable; but the law expects the Prudential Committee to use his best judgment, considering that he will know better what to do than the district taken as a whole. Circumstances often arise that demand just such discretionary power on the part of the Prudential Committee.

In the absence of the Clerk, the duties of that office devolve upon the Prudential Committee, and he is subject to the same penalties for failure or refusal to perform such duties.

For the discussion of "Dismissal of Teachers," "Expulsion of Pupils" and "Making of School Regulations," reference is had to those topics in the succeeding chapters.

5. *Duties of Clerk.*—The Clerk's duties relate mainly to the records. So far as the teacher is concerned, his duties are to provide a register for the record of attendance (Section 90), and at the close of the term, to examine and certify to the correctness of the same, if properly made out and certified by the teacher (Section 191). No teacher is entitled to compensation except he presents this certificate of the Clerk to the Prudential Committee (Sections 86 and 192).

It is the duty of the Clerk to keep a record of the votes and proceedings of School District meetings and give certified copies thereof when required. In the absence of the Clerk, the duties of recording officer are performed by the Prudential Committee.

School District meetings are warned "by the Clerk, or, in case of his neglect, by the Prudential Committee, by posting in two most public places in the district, at least seven days before the time of meeting, notices stating the time and place of meeting and the business to be transacted or considered" (Section 90 and Chapter II. School Meetings). The annual meeting must be held on the last Tuesday in June; and special meetings *shall* be warned by the Clerk whenever applied for in writing by three voters of the district (189). The Clerk *may* call a special meeting at any time without a written request, but he *must* call such meeting if the proper request is made. 20 Vt. 487 and 23 Vt. 416.

The Clerk also acts as a census officer of the district. With reference to the registration of births and deaths, the Revised Laws, Section 2547, provide as follows: "The School District Clerks in each town, or in towns not divided into School Districts the Clerk of School Board shall annually, in the month of January, ascertain the births and deaths which occurred in their respective districts, during the year next preceding the first day of January; and

shall report to the Town Clerk on or before the first day of February the date and place of birth of each child, its name and sex, the name and residence of its parents, and the occupation of the father. They shall also report the date, place and disease or apparent cause of each death, name and sex of the deceased, whether married or single, his age in years, months and days, place of birth, name of his parents and his occupation if over fifteen years of age." For the Clerk's duties in making census of the pupils of school age see Sections 168–170.

6. *School District Treasurer.* — The duties of a Treasurer are those usually devolving upon such an officer. He may be required by vote of the district or by the Prudential Committee to give bonds for the faithful performance of his duties (Section 81). He is absolutely liable to the district for all funds which come into his hands in his official capacity, and in case of loss *cannot* be excused from payment by reason of the cause or manner of the loss. The district has no power to release him from liability for money lost or misapplied by him. If he deposits the funds of the district in some bank and by that means the district suffer loss, he is personally liable. The Treasurer can pay out the funds of the district only on order of the Prudential Committee (Section 86).

7. *Collector.* — The duties of a School District Collector are like those of a Town Col-

lector, and are of such a varied nature as to forbid their being included here. He may be required to give bond in the same manner as the Treasurer. A School District cannot choose a Collector *pro tem* but only for the year; nor to do a part of the duties of Collector, whether or not the office of Collector is vacant. Hadley *v* Chamberlain, 11 Vt. 618. The simple duties are of such a nature as to be readily comprehended; but if for any reason a Collector is obliged to take legal measures to collect a tax, the legal process of collection being so complex, he should consult a lawyer and not trust to a general knowledge of the subject. Much trouble and litigation could be avoided by so doing. The district may elect the Town Collector to serve as District Collector although he is not an inhabitant of the district, if he will accept in writing. Such acceptance should be recorded in the District Clerk's office.

8. Auditors. — School District Auditors perform the same duties as the Auditors of the towns. Immediately previous to each annual meeting they shall examine and adjust the accounts of the District Officers and report those accounts with the items thereof, and also the state of the treasury, to the district at the annual meeting.

9. Moderator. — The duties of a Moderator are those of a presiding officer. He governs the meeting, entertains motions and declares votes. He is elected annually and holds his

office till his successor is chosen. In the absence of the Moderator a *pro tem* appointment may be made. His return to the meeting would, however, put an end to the temporary vacancy. The practice followed by some districts of electing a Moderator at each meeting is completely irregular. Such election can occur only at the annual meeting and in case of vacancy, or absence of the Moderator. As a presiding officer, the Moderator cannot vote except when there is a tie. An appeal may be taken from his decision of a vote by calling for a division. The Moderator with the Clerk and Prudential Committee comprise the board of decision on a challenge of voters.

10. Board of Education. — Section 13 provides that, "every town at its annual town meeting shall elect one person, a resident of such town, to be a member of a County Board of Education, and the persons so elected shall hold their offices for one year, and shall constitute a Board of Education for that county." The County Board of Education is a new feature in our school system, which promises to figure quite prominently in the improvement of the schools. Numerous and important duties devolve upon the board and its members under the provisions of the school law, prominent among which is the election of the County Supervisor. They also have cognizance of all matters pertaining to education in their respective counties. The individual members shall

collect and report statistics and such other information relative to the schools in their several towns as the State Superintendent shall from time to time direct. With the Supervisor of the County, they constitute a board for the selection of text-books in the branches prescribed by law, the use of such books to be uniform throughout the county. The first selection of text-books by this Board of Education shall take place in the year 1890 prior to the first day of April, and a new selection shall be made every fifth year thereafter. The use of any other text-books in the studies prescribed by law than those chosen by the county board is prohibited. But this does not forbid the use of such books as may be supplied without expense to the pupils (Section 172).

They shall also individually act as truant officers for their respective towns. The duties of truant officer, under the old law, were performed by the Prudential Committee, sheriff, deputy sheriff or constable. Under the new law, none of the above named officers are relieved of the duties of a truant officer, but *may* and upon the proper application *must* arrest habitual truants the same as under the old law. The member of the county board from the town is authorized to perform the same duties, and it is evident that the intention of the law was to make it especially his care. The committee who revised the school laws realized that a large part of the illiteracy of our state was due

to irregular attendance upon schools. To overcome this evil, they provided that each town should elect a truant officer who should especially interest himself in this matter.

The law provides that children of good health and sound mind between eight and fourteen years of age shall attend the public schools at least twenty weeks in the year, "unless such child has been otherwise furnished with the means of education for a like period of time, or has already acquired the branches of study required by law to be taught in the common schools" (153). It is the duty of the truant officer, and of all having authority in the matter, to arrest and place in school all pupils who are required by Section 153 to attend school, and who are, during a term of the public school in the district in which they reside, habitually found in the streets or other public places, having no lawful occupation, or who are habitual truants. The Truant Officer, Prudential Committee, or any officer authorized to make arrest in the town in which such district is located, who shall refuse or neglect to carry out the provision of the law relating to truancy, after proper application has been made, shall be fined not exceeding one hundred dollars. Special attention is called to the provisions of Chapter VIII.

11. De Facto Officers. — *De Facto* Officers are those who are eligible to the office to which they are elected, but into whose election some

irregularity of proceeding has come through error; as would be the case if the notice of the meeting at which they were elected proved to be faulty. Persons who are ineligible to the office though regularly elected cannot claim the privileges of officers *de facto*. A tax assessed by such a Prudential committee would not be a valid tax. Woodcock *v* Bolster, 35 Vt. 632. The doings of an officer *de facto* are binding on the district as to third parties. We have already noticed in considering elections that officers elected at any other than the regular meeting, except to fill vacancies, are not *de facto* officers.

CHAPTER IV.

TERM OF OFFICE AND FILLING OF VACANCIES.

1. *Term of Office.* — Section 73 provides that the term of office of district officers shall commence at the time of their election and shall continue till their successors are chosen, which could be done only at an annual meeting. If the district should fail to elect officers at the annual meeting, the officers of the previous year would hold over till the following annual meeting. If the prudential committee is the committee of three provided for in sec. 74, the term of office of the first elected would be one year, of the second, two years, and of the third, three years. At the end of the first year

a member would be elected whose term of office would be three years. If a vacancy should occur in such a committee, the person elected would serve the unexpired term. If the district decides to discontinue its committee of three, it can be done only by omitting to elect a member to fill the vacancy at the end of the year, which would leave a committee of two for the following year. In the same manner the number can be reduced to one for the next year (76). The reason for this is evident. Each member was elected for three years and could not be deprived of his office by vote of the district before the expiration of his term.

If a district at its annual meeting elects a prudential committee of one, it cannot, during the year, supersede such committee by appointing another in his place; nor can the district increase the number of the committee by appointing one or more to act with such prudential committee. Mason *v.* School District, 20 Vt. 487; George *v.* School District, 20 Vt. 495; Chandler *v.* Bradish, 23 Vt. 416.

2. *Vacancies.*—Vacancies in school district offices may occur by death, by resignation, or by failure to perform the duties of the office. Of the first two, little need be said. Resignations are generally made in writing and filed with the clerk of the district. Vacancies occurring from neglect of duty are governed by statutory provision. The office of prudential committee is vacant if that officer is absent

from the district more than three months (73). If the collector or treasurer neglect to provide the required bond for the space of ten days, such offices shall be deemed vacant. Also, if the district officers neglect to provide instruction for the pupils of the district, the selectmen shall, upon petition in writing, summon the prudential committee to a hearing; and upon finding the neglect to be true, shall declare the offices in the district vacant and shall provide for the instruction of the pupils according to section 115. In case the district collector neglects or refuses for ten days to pay over funds belonging to the district or to submit his tax-book to examination by the treasurer, he becomes liable to a fine of one hundred dollars, and his office is thereby vacant.

3. *Filling Vacancies.*—Vacancies are filled in the following manner: When a vacancy occurs in the office of clerk, treasurer, or collector of a school district, or in the office of prudential committee in a district whose committee consists of one person, the selectmen of the town shall fill such vacancy until a new election is made, by appointment of a legal voter of such district, and the district may at a special meeting make a new election to fill the vacancy. If the committee is one of three members, the selectmen have no authority in the matter; the remaining members will act till the vacancy is filled by the district.

CHAPTER V.

SCHOOL YEAR AND HOLIDAYS.

1. *School Year.*—Section 163 defines a school year to be from July 1 to June 30 following. In the absence of express conditions, a school day is of six hours, three in the forenoon and three in the afternoon, five such days constitute a school week, and four such weeks a school month. Each district shall maintain a school at least 24 weeks in the school year and no term can be less than eight weeks in length. As a penalty for failure to provide the requisite number of weeks of school the district can draw no part of its public money. No school shall be taught between the last day of June and the last Monday in August without the written permission of the Supervisor (164). This time is set apart as a vacation for all the schools in the state and provides for uniformity in the school year. Districts may establish evening schools, and one session of such school may be treated as a half day session of the public school (165). If a district provides for the instruction of all its pupils in a neighboring district, such time shall be counted in determining the length of the school year. Also if the district makes a contract with another district to furnish instruction to its pupils for at least 24 weeks, it shall be considered as having maintained a legal year's school and will be entitled to its share of the public money.

2. Holidays. — A public school teacher shall not be required to teach or perform any other service on a legal holiday, and no deduction shall be made from his compensation because of his absence on such days; neither shall such time be deducted in determining the length of the term (167). Also a time not exceeding four days, actually spent by a teacher of the common schools in attendance upon teachers' institute, during the term for which such teacher is engaged to teach, shall be counted as so many days of school taught, in making out the register and in determining the compensation of the teacher (166).

In keeping the register, holidays and days spent in attendance upon a teacher's institutes shall be considered as spent in school. The record should be kept as though school had been in session with the whole number of pupils present. As to what are legal holidays in this State, Section 2010 of the Revised Laws provides as follows: "The first day of January, the fourth day of July, the thirtieth day of May, the twenty-fifth day of December and a day appointed by the Governor of the State, or by the President of the United States, as a day of fast or thanksgiving, shall be considered holidays." Under the present law, there may be then six holidays, — New Year's, Fast Day, Decoration Day, Fourth of July, Thanksgiving Day and Christmas. Besides these mentioned, it has been the custom of the Governor for sev-

eral years to set apart some day for planting of trees, known as Arbor Day, and to call upon the schools of the State to take part in such work. Such day could not be taken for any other purpose than that specified in the Governor's proclamation.

CHAPTER VI.

EMPLOYMENT OF SCHOOL TEACHERS.

1 How Employed.—2 Character and Conditions of the Contract.—3 Certificate.—4 Wages.— 5 Breach of Contract.—6 Remedies and Defenses.—7 Dismissal of Teachers.

1. How Employed. — It is the duty of the prudential committee, or, under the town system of schools, of the school directors, to engage teachers and fix their compensation. No other officer in the district has the authority to hire upon his own responsibility, but any one may be delegated as an agent of the prudential committee to make the contract with the teacher. The agreement made between the prudential committee and the teacher is called a contract and is subject to the general rules of the law of contracts.

2. Character and Conditions of the Contract. — It is impossible for us to enter into a lengthy discussion of the nature of contracts, a subject beset with many fine legal technicali-

ties. We will consider only such points as seem necessary to a general idea of the subject.

A contract is a mutual agreement between two or more competent persons to do or not to do some specific act for a legally sufficent consideration. A contract is not binding till both parties have assented to the conditions. Minors may enter into a contract but may refuse to perform on their part if the conditions are not favorable to them. The contract is binding on the part of the other contracting person, and will be binding upon the minor if he takes the benefit of the contract.

Minors possessing the requisite qualifications may, with the consent of their parents or guardians, contract to teach. When the minor contracts for himself with the consent of his parents or guardian, or where he is compelled to go abroad and do for himself, he is entitled to receive his earnings, and payment to him can safely be made. 16 Vt. 42. Emancipation of a minor does not increase his capacity to make a contract, but merely entitles him to his earnings. In any other case than the one mentioned above, the consent of the parent must be granted or else a payment to the minor will not be a satisfactory payment and an action may be sustained by the father to recover from the district for such services. Under our statutes a married woman is competent, with the consent of the husband, to make contracts to teach, and a payment to her will be sufficient.

A contract to teach is a personal contract; consequently no one can be delegated as agent to carry on the school in the place of the teacher employed. A contract to teach is also an entire contract, and if terminated without cause before the conditions are all performed, no compensation can be claimed for work already done. 27 Vt. 646. If, on the other hand, the cause for terminating the contract was beyond the control of the teacher, he should receive pay for the work done, allowance being made for damages sustained by the district. In Bromley *v.* School District. 47 Vt. 381, it was decided that if a duly certified teacher should be compelled to give up a term of school by circumstances not occasioned by any fault of his and not affecting his ability to teach, and should hold himself in readiness to finish the term when the impediment was removed, he could collect wages for the whole time. If a teacher is compelled to give up school on account of sickness, he should receive fair compensation for the time employed.

A contract to teach made on Sunday will not be void if both parties ratify the contract at some later date. If a prudential committee should contract with one person on Sunday and on the following day should engage another person without first ratifying the contract of the previous day, the contract made on a business day would be binding while the other would not. The laws of the state make all contracts

made on Sunday void, and there must be some ratification, either express or implied, to revive such an agreement.

The contract may either be parol or in writing, but it is better always to reduce the agreement to writing in order to avoid troublesome disputes. When in writing, it should be signed by both parties and should state plainly the condition of the contract.

3. *Certificate.*—Under our new law the essential qualification on the part of the teacher is the possession of a duly authenticated certificate of competency, and according to section 40, a contract to teach will be made void if a teacher begins a school without such certificate. The certificate is *prima facie* evidence of the teacher's ability to teach a school of a certain grade.

There are two general classes of certificates—those granted by the normal schools and recognized throughout the state. and those granted by the county supervisor and good for the county under his supervision. Of the state certificates there are two grades—one for ten years and the other for five years, determined by the course of study in the normal school and by the general proficiency of the candidate. A teacher having a second grade certificate may, at the fifth annual examination after his graduation, be admitted to an examination for a first grade certificate, if he presents to the examining board of such normal school satisfac-

tory evidence that he has taught successfully in the common schools of the state for 100 weeks since his graduation. Supervisors of counties may grant to teachers holding highest grade certificates from normal schools in other states permits to teach in the county under the same conditions as in the state for which the certificate was granted.

Sec. 53 provides that in case teachers do not hold state certificates they shall obtain certificates from the supervisor of the county where they are to teach, which certificates shall be valid throughout such county; and a supervisor shall not, except as elsewhere provided (sec. 56), issue a certificate without a public examination of the applicant in all the branches required by law to be taught in the common schools (sec. 45).

Of the county certificates there are three grades. Sec. 53 provides that a certificate of the first grade shall be granted only to one who has taught successfully 40 weeks, and shall be a license to teach in the county for five years, unless revoked by the supervisor. Such certificates shall be based in part upon an examination in such higher branches as the state superintendent shall designate, and may be endorsed by the supervisor of another county, if application is made in person, so as to extend its effect to that county. Certificates of other grades cannot be endorsed by supervisors of other counties.

A certificate of the second grade is granted to a teacher having had 12 weeks' successful experience, and is based upon an examination in the branches required by law to be taught in the public schools (sec. 95) which shall show a certain degree of proficiency in these branches. Such certificate is good for two years anywhere in the county unless revoked by the supervisor. A certificate of the third grade shall be a license to teach for a specified time not exceeding one year, and may, at the discretion of the supervisor, be limited to the teaching of one school, or for one term. The act also provides that a teacher who has twice received a certificate of the third grade and has taught school at least 12 weeks, shall not afterwards be given a certificate of that grade. He must be a candidate for the second grade and, failing, cannot be granted a license to teach.

No person under 17 years of age shall receive a certificate of qualifications. A person holding a state certificate must notify the supervisor of the county in which he is to teach before opening the school. The certificate is not limited by the term of office of the supervisor but will run till the expiration of the time named, as will also certificates granted by town superintendents before the passage of the school act.

If a certificate expire during a term, the contract is not made void by this means but the teacher is qualified to complete the term with-

out a new certificate (34 Vt. 270). Having a certificate at the commencement of the school makes the contract valid for the whole term if the certificate is not revoked. Also if a teacher begins a school without a certificate but later procures one and continues to teach the school with the consent and approbation of the committee, he knowing the fact, it is *held* that there is an implied contract which will revive the previous contract made void by the statute requiring the teacher to be provided with a certificate upon opening the school. Her legal rights will begin at the date of the certificate. 46 Vt. 452 and 41 Vt. 353.

Circumstances cannot supersede the necessity of a certificate, nor can the committee waive it so as to bind the district. The fact that the supervisor is sick or deceased, with no one appointed to fill his place, will not justify a teacher in opening a school without a certificate. The provision being statutory, the requirement is beyond the control of the supervisor, the committee, or the district itself. 26 Vt. 115; 30 Vt. 586. In 35 Vt. 623 it is *held* that the certificate need not contain any statement of the good moral character, although this must be inquired into by the examiner.

If the candidate uses fraud in the examination, such fact coming to the knowledge of the examiner, he may withhold the certificate; or if the license is granted and the fact afterward comes to the knowledge of the supervisor, he

may annul such certificate. Under the old law the examination did not need to be personal. Certificates were often granted without examination when the superintendent knew the candidate to be qualified. According to section 45 the examination must be *personal* and *public* and in *all* the branches required by law to be taught in the public schools. (See sections 44, 56, 57, 58 and 59). No teacher should enter upon the duties of the position without first having carefully studied the law relating to teachers' certificates. (Chap. 3, School Acts).

4. Wages of Teacher.—The wages of a teacher will be due at the close of the term unless stipulations to the contrary are made in the contract. As we have said, the contract to teach is entire and nothing becomes due from the district till the services are completed by the teacher. Any breach of contract would, in law, prevent the teacher from recovering wages for the work already done. If a teacher begins school without a certificate he *cannot be paid* by the district for the time he teaches *without* a certificate. (Sec. 87). The district cannot legally vote to pay a teacher from the treasury under such circumstances. It is strictly forbidden by statute. The same is true if the certificate is revoked before the expiration of the term. The remaining part of the school is illegal and cannot be made legal by vote of district.

The wages of a minor will be subject to the order of the parent and cannot lawfully be paid to the minor without the consent of the parent, unless the contract was made with the minor himself and with the knowledge and consent of his parent or guardian, or unless the minor has been emancipated. The principle of accord and satisfaction holds in the case of a teacher's contract, except when the teacher is a minor. 47 Vt. 381. The principle of accord and satisfaction may be briefly stated thus: If the district, through an agent, offers a certain sum as a full payment of the compensation, and the teacher takes the sum without an agreement on the part of the committee that it shall be part payment simply, although the teacher says, "I will take it but shall not consider it payment in full," he cannot recover the balance. Such payment (accord and satisfaction) would be payment in full. If, however, a *minor* takes a sum offered as satisfaction it will not operate as accord and satisfaction, providing he demands payment in full. A teacher found an order at her boarding place for wages up to the time of dismissal, which she took for a few hours but afterwards returned, saying that she did not accept of it. It was decided that she did not lose any of her rights to collect for the whole time by this act. 38 Vt. 602. It was *held* in Seymour *v.* School District (N. E. Reporter, No. 1, page 623) that an order drawn

on the treasurer of the district by the school committee and delivered to the teacher is a cash payment of the teacher's salary and relieves the district of the liability to attachment and trustee.

In case the teacher fails to fill out the register, or make the proper returns, or to answer the questions for teachers he cannot be paid his salary. The clerk should not grant a certificate for return of register unless returns and answers are properly made out, nor should the prudential committee give an order upon the treasurer till he receives the proper voucher from the clerk. If a teacher neglect to answer "inquiries to teachers" in filling out the register and the district thereby loses its share of the public money, the teacher is liable to the district for the loss thus sustained. 35 Vt. 623.

5. *Breach of the Contract.*—If the contract is broken in any manner by the teacher, he forfeits his right to compensation and is liable to be dismissed. We quote the following from Burke's Law of Common Schools: "If a teacher in a public school, although he has been employed for a definite time, proves to be incompetent and unable to teach the branches of instruction he has been employed to teach, either from lack of learning or from an utter want of capacity to impart his learning to others, or if in any other respect he fails to perform the obligations resting upon him as a teacher, whether arising from the express terms

of his contract or by necessary implication, he has broken the agreement on his part, and the trustees (committee) are clearly authorized to dismiss him. As has been stated, the law does not insist upon the highest degree of talents; but it does require the teacher to bring to his work at least average abilities, and the usual industry and application to the discharge of his duties. If he fails in this respect his contract is broken. The school district on its part agrees to pay, at the time fixed in the contract, such sums as the teacher shall be entitled to as salary. A failure on the part of the district to make such payment gives the teacher a right of action.

"If a teacher is employed for a definite time, and during the period of his employment the district officers close the schools on account of smallpox or any contagious disease, and keep them closed for several months on that account, and the teacher continue ready to perform his contract, he is entitled to full wages during such period. The act of God is not an excuse for non-observance of a contract unless it renders performance impossible. If it merely makes it difficult and inexpedient, it is not sufficient. Although under such circumstances it is eminently prudent to dismiss school, yet this affords no reason why the misfortune of the district should be visited upon the teacher." The teacher should, however, hold himself in readi-

ness to perform on his part all the conditions of the contract.

6. Remedies and Defences. — This is a matter to which but little attention need be given here. It pertains to the practice of the courts instead of to the everyday matters of school.

The remedy on the part of the district for failure to perform is limited to dismissal (which see). The teacher has the choice of two remedies, — an action on the contract, or a writ of mandamus to compel the officers to perform the conditions of the contract. If a teacher has been wrongfully dismissed from the school, he can sue the district and compel them to reinstate him, or he can sue them for damages, which would be the remedy most frequently depended upon. The teacher who is wrongfully dismissed should hold himself in readiness to serve the unexpired term, when at the close of that time he can sue for services rendered. If he can collect wages, it will be for the whole term.

It would be a good defence for the district to show that the teacher did not have the required certificate. Incompetency, incapacity or failure to perform the obligations resting upon him as a teacher will authorize his dismissal, and defeat the recovery for salary accruing after the dismissal. Complaints of incapacity, etc., would not be sufficient defence, if the teacher has not been dismissed for the failure. In a suit brought to collect wages, it was pleaded,

by the district, among other defences, that the teacher was incompetent to manage the school, that she was unreasonable in her requirements of the pupils, and was uneven in her treatment of them, and partial and abusive in her treatment of certain ones in her school, and that she failed in all respects as a teacher of said school. It was *held* that evidence of particular instances of mismanagement in her government of the school could be brought in as evidence of her incompetency. 38 Vt. 529. The fact that a large part of district was dissatisfied with the teacher would not be ground for dismissing a teacher and courts would not allow such a defence to be made in a suit to recover wages 20 Vt. 487.

7. *Dismissal of Teachers.* — As the power of employing teachers is wholly vested in the prudential committee, the power of dismissal is wisely left with the same officer. As the district cannot dictate in the employment of a teacher so also they cannot, by vote or otherwise, cause the removal of a teacher.

The prudential committee can remove a teacher for any breach of contract expressed in the conditions or implied therefrom. As for example, if a teacher should dismiss school for a short time without the consent of the committee, and for no better reason than to make a visit or attend a fair, although he intended to make up the time so lost, he would be regarded as having broken the contract to teach. If a teacher employed another to take his place

he would fail to recover for the remainder of the term, and at law he could not recover for the time he had served, having broken his contract; but in equity he might recover, if circumstances against him were not aggravated. A teacher hired for a term was inattentive and unfaithful, but was not dismissed. Later he went away for five or six days, during which time the committee hired another teacher. On suit for pay for services rendered, it was decided that he could not recover for the time *actually* employed, as the contract was entire. 29 Vt. 217.

In case the teacher was prevented by sickness or some other reasonable cause from consulting with the committee, it would probably be regarded differently. In any event, it is well to get the consent of the prudential committee before dismissing the school even for a single day.

As the terms of the contract imply that the teacher is competent and willing to teach the school to the best of her ability, the teacher may be dismissed for failure in either or both of these respects. The degree of competency that a teacher promises to bring with him will depend somewhat upon the grade of the school and past experience of the teacher. The law does not require the highest order of talent or qualifications in a teacher. It only requires average qualifications and ability and the usual application to the discharge of his duties.

Reasonable governing skill alone would be demanded; but incompetency to teach any of the branches required by law to be taught, or those included in the examination, if it is a certificate of the first grade, or to properly rule and govern the school would be good and sufficient cause for dismissal. Occasional mistakes do not necessarily prove incompetency. 38 Vt. 529.

It is not sufficient that the teacher is unpopular in the school or in the district or that the people are dissatisfied with the school in any way; it must be a failure to do his duty in the school, a wilful excess of authority, or failure to set a good moral example before his pupils. A teacher's conduct should be above reproach and suspicion at all times, as he agrees to teach by example as well as by precept.

A contract containing the stipulation that the teacher would leave if the school was not satisfactory would not justify the committee in dismissing the teacher on account of personal unpopularity in the district, or for any other reason than dissatisfaction with her school. 38 Vt. 602. It would be highly advisable for the teacher to resign under such unfavorable circumstances, but she can claim the protection of the law under her contract if she sees fit to do so.

With reference to school government Ch. J. Redfield has given a learned opinion, a part of which we take the liberty to include under

this topic. He speaks as follows: "The very highest order of administrative talent in schools and everywhere else is pretty sure to get along quietly. But every one does not possess the ability to govern a school acceptably, at all times, and in all places, and under all circumstances, for there is no government more trying, under an unfavorable complication of influences. That of administering the affairs of a great empire is scarcely more trying either to patience or skill." If such is the truth, and experience enables us to accept it as true, only a reasonable degree of skill in government can be expected of young and inexperienced teachers. They must at least do their best, and if that comes within reasonable skill and ability they cannot lawfully be dismissed. Nor can an absolute standard of perfection be established. What would be considered failure on the part of an experienced teacher might be excusable if the teacher was less experienced and was engaged with that understanding. What is reasonable cause for dismissal would be a question of fact to be decided by the jury. That the committee acted in good faith would not justify an illegal dismissal.

As the teacher promises to maintain good discipline and may be dismissed for failure to do so, she is not bound to continue a contract under circumstances which forbid her doing her duty in this direction. A teacher expelled a scholar for disorderly conduct, upon which the

committee insisted upon his being reinstated in the school. Being satisfied that she could not maintain proper government with him in the school, she abandoned her school and brought suit for wages. The court decided that she had been dismissed for no fault of her own, and that the order of the committee had obliged her to continue a poorly governed school, which was unreasonable, or to abandon her contract. 46 Vt. 452.

CHAPTER VII.

SCHOOL REGULATIONS.

1 By Whom Made?—2 By Whom Enforced? 3 Conflict of Authority.—4 Regulations as to Admission.—5 Regulations as to Attendance.—6 Regulations as to Use of Bible.—7 Regulations as to Compositions and Declamations.—8 Regulations as to Studies.—9 Regulations as to Conduct.

The general test to which all school regulations are subjected is the *reasonableness* of the rule. Any order, rule, or regulation not subversive of the legal rights of the parents or children, or in conflict with humanity and the principles of Divine law, and which tend to advance the object of the law in establishing public schools, would be considered reasonable. Burdick *v* Babcock, 31 Iowa 562. Schools cannot exist without regulations any more than

society without laws. Every school must have a few well defined and well understood rules, the common law of the school-room, which every pupil must observe.

1. *Regulations Made by Whom?*—Under the old law, the decisions were such as to leave no doubt as to the question of authority to lay down regulations for the government of the schools. Ferriter *v* Tyler, 48 Vt. 444, clearly indicates that the management of the common schools is left with the prudential committee, subject to any general regulations made by the superintendent. Section 83 of the new law among other things provides that, "the prudential committee shall adopt requisite measures, not in conflict with those of the supervisor of schools, for the inspection, examination, *regulation* and improvement of the schools." Section 203 provides that, "A supervisor shall have the immediate supervision of the public schools of the county, and may, subject to the approval of the state superintendent of education, adopt measures necessary for their examination, *regulation* and improvement." So far as prescribing regulations for school government is concerned, the supervisor stands in nearly the same relations to the schools as the town superintendent, under the old system, with a more imperative requirement that he oversee the details of the work. The natural conclusion would be that the county supervisor has the authority to make regulations to be fol-

lowed by the school officials and teachers throughout the county, which regulations, sanctioned by the state superintendent, would supercede those made by any other authority. However, if the supervisor has not acted upon any question, it is the duty of the prudential committee to make reasonable regulations, which regulations, of course, would cease to be operative when in conflict with those established by the supervisor.

With this understanding we can fall back upon the rules already laid down by the courts. The prudential committee when not acting contrary to the directions of the supervisor, stands as the origin of school authority. It has been conferred upon him by the operation of the statutes and the suffrage of his fellow men. It is an important trust and one requiring a large degree of discretion to perform with credit and satisfaction. In the operation of the law, he acts for and as the district as a whole. All the rights are vested in him that otherwise would belong to the individul members of the district. He may provide rules for attendance, excuse, dismissals, general conduct in and about the school buildings, — in short, make any *reasonable* rule for the good of the school. This conclusion would be natural even if the law did not clearly specify the duties of the office. The right must naturally be implied from the giving the control of the school into the hands of the prudential committee. 48 Vt. 444. The rules

of the school need not be in writing nor is it necessary that a record of the rules be kept. 116 Mass. 366. But it often happens that the prudential committee fails to take any action with reference to the rules of the school. In case of such failure or neglect in whom does the legal right rest? It is the common practice supported by the uniform decisions of the courts that the duties of the prudential committee in the direction of "regulation and improvement of the schools" devolve, from the necessity of the case, upon the teacher of the school. The following paragraph, taken from Burke's Law of Public Schools, expresses the rule in concise and simple language: "While the principal or teacher of a public school is subordinate to the school board (in our state to the town or district committee), and must enforce regulations adopted by it for the government of the school, and execute its lawful orders in that behalf, yet, in matters concerning which the board remained silent, he has authority, as *in loco parentis*, to enforce obedience to his lawful commands, subordination, civil deportment, respect for the rights of other pupils and all other obligations inherent in every school system, and constituting the 'common law of the school which every pupil is presumed to know," (Burke's, page 90.) The prudential committee may make any needful regulations; but in case of his neglect, and in questions where he has not acted, the teacher,

in loco parentis, in the place of the parent, may make any and all reasonable rules and regulations and enforce obedience thereto. In fact, it would seem advisable to give the teacher as much authority in this direction as can consistently be entrusted to him, keeping always in view the interests of the pupils and the school. Being the only person intimately acquainted with the various circumstances and necessities of the case, he can act much more intelligently than a stranger to the schoolroom. If he is a man worthy of the profession to which he belongs, little or no harm can come from entrusting school discipline largely to his discretion.

2. *By Whom Enforced.* — The rules are made for the government of the school, and the teacher is the only person who is at all times in direct control of the school. The law implies, therefore, a right to enforce obedience to rules made by the committee, and certainly to those made by himself. It would cripple the efficiency of school government if the teacher were obliged to appeal to the committee in case of each and every breach of rules. In the execution of a proper rule he is not liable for any damage that may ensue, providing always that the punishment is reasonable. 32 Vt. 224. (See Chapter on Punishment.)

3. *Conflict of Authority.* — Have parents the right to control the actions of their children

when in direct opposition to a reasonable rule of school? Vermont's leading case upon this question is Ferriter *v.* Tyler, 44 Vt. 444. The case is long and involves many questions of interest. The facts in the case were briefly these: The Catholic children in the village school of Brattleboro were told by the Priest to attend service on Corpus Christi day, by doing which they were kept from school one day, greatly to their detriment and the inconvenience of the whole school, and in direct opposition to a rule of school for regulating attendance. This was done with the consent of the parents. The Priest sent to the committee a note saying he would confer a favor upon the Catholics, if he would excuse their children on all holy days, giving no excuse whatever for the request. This the committee did not see fit to do; and on the return of the pupils the next day, the teachers, under the direction of the committee, required an excuse from their parents and the Priest, saying that they should not be kept from school again under such circumstances. The parents and Priest refused to comply with this demand and the children were finally suspended till the end of the term, or till they would comply with the requirement. The parents based their suit upon two grounds—1st, their constitutional religious rights; 2d, their paramount right to control the action of their children in keeping them from school. The decision of the court, with reference to their

religious rights will be found under the topic relating to the use of the Bible in schools and will not be given here at length. The court concluded that the religious rights of the parents were in no way interfered with. The rule was not discriminating but affected Protestants and Catholics alike; it could, then, in no way be considered sectarian.

With reference to the second point the court held: "If the parents had the right to control the attendance of their children as against that rule, then the committee had no right to maintain and enforce the rule. We are not prepared to sanction a view of the subject that would subordinate the authority of the committee, in the matter of attendance of registered scholars, to the will of the parents. On the other hand we do not hesitate to hold and declare, as a matter of law, that in this respect, the citizen is in subordination to the lawful rules for the regulation and improvement of the schools; and this is for the same fundamental reason that he is in subordination to the statutes themselves, on that or any other subject, and it is no more his right to defy or disregard those rules, than it is to defy and disregard any statute that affects him as a citizen in respect to schools, or any other subject involving the common weal, as it is to be provided for under the Constitution by legislation of the state." Vermont's decision here given has been quoted in nearly every case of

the kind occurring since the report, and has met with universal favor. It is especially important as it shows to the citizens of the state that the courts of the state repose confidence in the prudential committees selected by the free choice of the people; and also that they think that they, as fair minded men, are no more liable to err in judgment than less favored parents and guardians. There is but little danger that reasonable excuses would not be considered by the committee; at least this danger does not appear one-hundredth part so alarming as the confusion sure to follow parental interference in school matters.

4. Regulations as to Admission.—In this state, questions under this subject can arise only in case of graded schools, or schools of two or more departments. The law provides that instruction *shall* be furnished for all pupils between 5 and 18 years of age. So in our common district schools the pupil would, of necessity, be admitted, if not infected with some contagious disease or in some such way disqualified to attend public schools. If a boy should come to a department of a graded school for which he was qualified in every respect excepting proficiency in grammar, accompanied by a request from his parents that he be excused from all studies requiring a knowledge of grammar, it has been decided unreasonable to refuse him admission, 87 Ill., 303. If his admission would interfere with the progress of

others in that grade, or if the studies in which he was deficient seriously interfered with studies he would be obliged to take in that grade, there would be no doubt as to the rule. A pupil cannot be allowed to do that which will hinder others in their work, or prevent his own successful advancement in the studies of the common school.

5. *Regulations as to Attendance.* — No question of school law has been more thoroughly considered by the courts of the different states and decided with more unanimity than that relating to attendance. It is a question of vital importance and worthy of the careful consideration that has been bestowed upon it. Space will permit us to refer to a few only of the leading cases. The right to attend school is not absolute, but one to be enjoyed by all on reasonable conditions, Sherman v Charleston, 8 Cush., 160. Under a free government like our own, our personal liberties cannot be carried so far as to transgress the rights of others. In attendance upon school the same principle holds; any act which deprives others of the full benefit of the school cannot be claimed as a personal right.

No one who has ever taught school can fail to realize how baneful the effect of absence or tardiness is upon the interest of pupils in their studies. And not only does it affect the absentee himself, but its influence is seen in the decreased interest on the part of those who are

regular in attendance. Time that might have been employed in advancing the class is required to enable the delinquent to keep along with it. On the other hand, if he does not make up the loss through absence, his dullness makes him a constant drag upon the advancement of the class. The class must suffer and endure the blunders, promptings and reproofs of the irregular pupil, all resulting from the failure to prepare lessons which should have been studied when the child's time was occupied by direction of his parents in other ways than in study. Tardiness is little better than absence in its effect upon the room. The confusion of entering the room when study has begun, of arranging books and getting to study are sure to detract from the order and efficiency of the school.

The first case noticed is found in 31 Iowa, 562, Burdick v Babcock. The Board of School Directors and Teachers in a district in Iowa adopted the following rules, among others: "Any pupil who is absent six half days in any consecutive four weeks, and two times tardy shall be counted as one absence, unless detained by sickness or other unavoidable cause, shall be suspended from the school until the end of the term or until reinstated by the Supervisor or the Board." "Teachers may require absence and tardiness to be certified to by parent or guardian, in writing or personally, or by special messenger. All lessons lost on account of

absence may be made up at the discretion of the teacher." The case was discussed at length. Some of the points having been included in our introduction we need follow it but briefly. With reference to parental authority the court said: "It is argued that the rule interferes with parental authority, inasmuch as it deprives the parent of his right to the services of the child at times when he may require them. * * * If he would have his child make proper advancement in school, he must not detract his attention or slacken his interest by interruptions for a day or two in a week, or an hour or so in a day, for the little advantage he may derive from his labor during that time. Neither has the parent a right to interfere with the order of the school, or the progress of the pupils, by sending his own children at times and in a condition that will, as we have seen, prove an annoyance and a hindrance to others." Also, the child may have contracted some contagious disease, through no fault of himself or his parents, yet as the good of the other pupils demanded it, he might be excluded from the school. Spear *v* Cummings, 23 Pick., 225. It might be urged as an objection to this rule that the poor parents, who need the assistance of the children more or less, would be subjected to inconvenience and injury. This is no valid objection, however. No reasonable teacher would refuse to grant an excuse in such cases, and the school would be willing to suffer incon-

venience for the benefit of the unfortunate ones. The rule operates just where it is required and compels attendance where absence is unnecessary or without sufficient excuse. Vermont's case, Ferriter *v* Tyler, has already been cited under another topic, (Conflict of Authority), to which reference is made.

Absences, when without excuse, are the fault of the parents, whose business is to see that the attendance of the child is regular, unless prevented by causes that will, of course, be an excuse, 71 Mo., 268. In Churchill *v* Fewkes, a case in Illinois, the same rule of attendance was held to be reasonable. The court closes the opinion as follows: "The rule does not trench upon the rights or dignity of any one. We instantly and properly repel any encroachment on our rights as citizens. We have a proper pride and ambition in maintaining these rights under any and all circumstances. But I am utterly unable to understand how this simple rule or regulation, requiring the pupil in a certain case to bring an excuse from his parents to the teacher, is an attack upon, or an abridgment of, our inalienable rights as citizens of this free country."

6. Regulations as to the Use of the Bible.—As the use of the Bible in the schools is not provided for in the statutes, it is left for the prudential committee to "regulate." Custom, and a custom almost as imperative as law, provides that the exercises of the day shall be

opened by reading a short selection from the Bible. The greatest objection comes from those who do not accept the King James' Version. The objection is usually based upon the religious liberty insured by the constitution, but courts have uniformly *held* that such objection is groundless. Donahoe *v.* Richards, 38 Me. 379, decides the general principles of the matter. The great question between the sects is not whether *a* Bible should be read but *which version*. Not being able to carry their views into effect, the minority complain that the reading of the Bible makes our schools sectarian and demand that *no* Bible be read. In the case above cited, these questions are all ably considered, with the conclusion that the prudential committee may decide whether the Bible shall be used and also what version.

It in no way compels religious belief to be obliged to listen to the reading of a certain version, Protestant or Catholic. But for a teacher to make comment or explain any doctrinal point would be highly improper and might render the reading unconstitutional. Ferriter *v.* Tyler, 48 Vt. 444, contains an able discussion of these questions and arrives at the same general conclusions.

7. *Regulations as to Compositions and Declamations.*— This question is ably discussed in Guernsey *v.* Pitkins, 33 Vt. 224. It is Vermont's leading case on questions of general exercises in schools. Briefly, the facts were

these: The teacher required the pupils of her school to write compositions. George H. Guernsey, the defendant, a pupil of her school, refused to write and was repeatedly urged to do so, both by the teacher and by the prudential committee. Pupil was finally told to bring an excuse from his parents, or to consider his connection with the school severed. Refusing to bring such excuse, he was expelled. Below is the decision of the court delivered by Ch. J. Redfield: "We are called to determine, in this case, the propriety of excluding a pupil from the common schools, for refusing to write a composition, as it is called. *This will depend upon the reasonableness of the requirement.* In regard to those branches which are required to be taught in the public schools, the prudential committee and the teacher must, of necessity, have some discretion as to the order of teaching them, the pupils who shall be allowed to pursue them and the *mode in which they shall be taught.* If it were not so, it would be impossible to classify the pupils, or for one teacher to attend to more than ten or twelve scholars. With this concession to the teacher of fixing the mode of teaching these branches, it seems very obvious that writing compositions may fairly be regarded as an allowable method of teaching many of these branches."

As to declamations, no decision has been made in Vermont, but there is little or no doubt

as to what would be considered good law if the question should arise. Kidder *v.* Chellis, 59 N. H. 473, is a leading case on the question and is no doubt good law. A pupil refusing to declaim was suspended by the teacher for non-compliance with the rule. The courts decided that the rule was reasonable and sustained the action of the teacher. We subjoin an extract from their decision: "The power of parents to decide what studies the scholars should pursue, or what exercises they should perform, would be a power of disorganizing the school, and practically rendering it substantially useless. However judicious it may be to consult the wishes of parents, the disintegrating principle of parental authority to prevent all classification and destroy all system in any school, public or private, is unknown to the law."

8. *Regulations as to Studies.*—With reference to this question much dispute has arisen, but the point seems to be settled in a satisfactory manner. We will try to present some of the leading cases. The decisions will be found somewhat conflicting in the different states and in some cases contrary to the general tenor of the decisions of those states. In some cases the difference can be explained by the difference in the statutes. In our own state, where the Supreme Court has been frank and liberal with its *dicta*, there is less liability to misunderstand the requirements of the statutes. Our courts have repeatedly approved regulations

tending to increase the control of the prudential committee over the schools, with the uniform decision that rules not subversive to personal rights of pupil or parent will be considered reasonable.

The statutes plainly say that "all pupils shall be thoroughly instructed in," etc. (Sec. 95.) Who shall determine when the pupil has received the proper degree of instruction in the prescribed studies if the prudential committee, or in his stead, the teacher, has not the right to do it? The great difficulty in our common schools has been the complete lack of uniformity and regularity in the course of study. With her present spirit, Vermont never will consent to be outstripped by other states in conferring full powers upon the school officers.

The school is, or should be, managed on the plan of the greatest good for the greatest number, and if sacrifice must be made, which is seldom the truth in reality, it should be made by the minority. No parent can reasonably insist that his child shall be placed or kept in a particular class, when by so doing others will be retarded in their studies; or that the child shall be taught studies not in the prescribed course of the school, or be allowed to use a text book different from that in use in the schools, or that he be allowed to adopt methods of study that interfere with other pupils in their studies.

In Morrow *v* Wood, 35 Wis. 59, it was decided, "that it could make no difference with the school management or with the other pupils if the study he wishes to take has no connection with other studies taken by other pupils, and that an expulsion for a refusal to study Geography, made at the suggestion of the parent, was unreasonable." The study of Geography being independent of other studies, the court could see no reason for insisting upon the study against the wishes of the parents. In Rulison *v* Post, 79 Ill. 567, the same decision was arrived at with reference to the study of Bookkeeping, a study *not* required by law to be pursued, but in the course of study under a provision of the statutes, permitting the school board to provide for instruction in higher branches than those prescribed by law. This decision affects the question in this respect only: If a prudential committee should provide for advanced instruction under the provision of Secs. 100 and 101 of the school law, could they compel the pursuance of subjects marked out in their course of study? The conclusion seems to be that if the study is of such a nature as to be essential to the further continuance in the school, such study may be made compulsory under the penalty of expulsion. If, on the other hand, it is a study standing by itself, the omission of which would injure no one but the pupil himself, the study cannot be made compulsory. This rule, however, ap-

plies to that part of the prescribed course only which is provided for in Secs. 100 and 101, as will be seen hereafter.

In Sewell *v.* Board of Ed., 29 Ohio 89, the question of compulsory education was again considered. In this case the School Board of Defiance, Ohio, under power given by the statute, prescribed the study of Rhetoric. A pupil refused to pursue the study, and not giving a satisfactory excuse for the refusal, was expelled. The court decided that the rule was reasonable and the expulsion justified by the circumstances of the case. This decision, it will be seen, directly controverts the rule of Morrow *v* Wood. In State *v* Mezner, 50 Iowa 152, the doctrine of the Ohio case was adopted although the plaintiff pupil won on the method of punishment. The pupil brought an excuse saying: "Please excuse Ada afternoons as her health will not permit her to attend all the time. And please excuse Ada from the Algebra class, she having more than she can do." The teacher refused to grant the excuse (a very unusual and impolitic thing to do) and used a "hickory stick" to enforce his authority. The court said: "Compulsory education is not yet the rule in this state, and instead of whipping the pupil for failure to attend or to study Algebra, when both she and her father desired that she be excused, we think the teacher should have plainly said to both pupil and father that she could not attend the school

unless she was prepared to observe the rules in this respect. If a pupil attends school it must be presumed that he submits himself to the rules; but this is not so in this case. Until compulsory education is established, we are unwilling to sanction the rule that a teacher may punish a pupil, as in this case, for not doing something the parent has requested the pupil to be excused from doing. The remedy in such a case is not *corporal punishment*, but expulsion." Kidder *v* Chellis has already been mentioned in section on rhetoricals, to which reference may be had. It takes the same ground as the Vermont and other cases, viz: All reasonable regulations in regard to study as well as to conduct shall be justified. This question has so much of interest both to parents and teachers that we venture to occupy a little space with an opinion from the little volume known as "Power and Authority of School Officers and Teachers": "The principal argument against parental interference rests upon the central pivotal idea of public education — a system of common instruction, announced and cared for by the state, for the benefit of all the people, and therefore the state. The state recognizes the fact that its stability and perpetuity are dependent upon the virtue and intelligence of its citizens; that individual and hence general virtue is increased by the increase of individual and general intelligence. To this end the state desires to secure for each pupil

the rudiments of education. It does not take from the parent the right, or release him from the duty, to educate his child; but it warrants a measure of education to the child as against the neglect or inability of the parent, and defines the duty of the parent. * * * Now if a father who, by force of circumstances or simple choice, has entrusted the education of his child to the state or its lawfully appointed agents, can dictate to the state or its agent, what amount, how little and how much, of the course of public instruction is necessary for the welfare of the child, and can refuse to have him take more than he desires and commands, and the school authorities are powerless, then the object of the law is frustrated; the express voice of the majority is without effect against the will of one man."

9. *Regulations as to Conduct.*—It is conceded that the teacher has a right to make all needed rules and regulations respecting conduct in and about the school. The only test is the reasonableness of the rule. We will consider the question of a rule respecting conduct outside of school.

In Lauder *v* Seaver, 32 Vt. 114, the question whether the control of the teacher extended beyond the school-house was admirably discussed, and being of so much importance, we subjoin the entire discussion. "It is conceded that his (the teacher's) right to punish extends

to school hours, and there seems to be no reasonable doubt that the supervision and control of the master over the scholar extends from the time he leaves home to go to school till he returns home from school. Most parents would expect and desire that teachers should take care that their children, in going to and returning from school, should not loiter, or seek evil company, or frequent vicious places of resort. But in this case the offence was committed an hour and a half after the school was dismissed, and after the boy had returned home and while he was engaged in his father's service. When the child has returned home or to his parents' control, then the parental authority is resumed, and then for all *ordinary* acts of misbehavior the parent alone has the power to punish. In this case, however, the boy, while in the presence of other pupils of the same school, used, toward the master and in his hearing, contemptuous language, with a design to insult him, and which had a direct and immediate tendency to bring the authority of the master over his pupils into contempt and lessen his hold upon them and his control over the school. This misbehavior, it is especially to be observed, has a direct and immediate tendency to injure the school, to subvert the master's authority, and to beget disorder and insubordination. It is not misbehavior generally, or towards other persons, or even toward the master himself in matters in no way connected with or affecting

the school. For, as to such misconduct, committed by the child after his return from school, we think the parents, and they alone, have the power of punishment. But when the offence has a direct and immediate tendency to injure the school and bring the master's authority into contempt, as in this case, when done in the presence of other scholars and of the master, and with a design to insult him, we think he has the right to punish the scholar for such acts, if he come again to school. All improper language or conduct may perhaps have, by influence and example, a remote tendency of that kind. But the tendency of the acts so done out of the teacher's supervision for which he may punish, must be direct and immediate in their bearing upon the welfare of the school, or the authority of the master and the respect due to him. Acts done to deface or injure the school room, to destroy the books of the scholars, or the books or apparatus for instruction, or the instrument of punishment of the master; language used to other scholars to stir up disorder and insubordination, or to heap odium or disgrace upon the master; writings and pictures placed so as to suggest evil and corrupt language, images and thoughts to those who must frequent the school; all such or similar acts tend directly to impair the usefulness of the school, the welfare of the scholars and the authority of the master. By common consent and by the universal custom in our New

England schools, the master has always been deemed to have the right to punish for such offences. Such power is essential to the preservation of order, decency, decorum and good government in our schools."

CHAPTER VIII.

DISCIPLINE.

1 Expulsion.—2 Suspension.—3 Corporal Punishment.

The right to punish refractory pupils as well as the right to make rules and regulations for the government of the school, is derived from the prudential committee, if not exercised by him in person. The implied promise to govern made by the teacher implies a right to enforce obedience; and if the prudential committee does not exercise the power of making and enforcing rules, the law considers that the right to do both has been delegated to the teacher. It is generally regarded to be the special prerogative of the prudential committee to expel. A teacher may punish corporally or may suspend, subject to the action of the committee. The teacher may expel and the committee afterward adopting and agreeing in the action will render the expulsion valid. The custom has prevailed in the past, and probably will be continued, of allowing nearly or quite all matters of discipline to be controlled by the

teacher. He alone can be on the spot and realize the peculiar circumstances attending the breach of order, and is the only person prepared to judge of the proper punishment to suit the peculiar case. While it may not be advisable to give the power of expulsion into his hands, at times it is necessary to suspend a refractory pupil at once to prevent others being contaminated by his evil influence.

The welfare of the child, the enforcement of the rules of school and an example to other evil-doers comprise the principal objects for punishment. In Scott *v* School District, 46 Vt. 452, the decision seems to be that the teacher should exhaust all other reasonable means of control before resorting to expulsion or suspension. There are cases, however, in which the punishment was not for a breach of rule but for a failure to pursue studies required to be taught. In these cases, as we have already seen, the punishment was not properly corporal but should have been expulsion or suspension.

We will now briefly review a few cases touching upon the special methods of punishment.

1. *Expulsion.*—A case is found in 27 Vt. 755, where a teacher had forbidden a pupil's further attending school without a proper apology for some misdemeanor. The teacher sent for the prudential committee, who ordered the boy to make the apology or leave school, both of which the boy refused to do; whereupon the

committee forcibly expelled the boy from the school-house. It was held that the prudential committee did not exceed his powers by taking the school into his control for the purpose of expelling the pupil. A committee may even expel a boy for insulting him in the school-house before the school opens in the morning. (Peck *v* Smith, Conn.) During the period of visitation, the committee has the entire control of the school. For the time being it is his school and the teacher is his servant. (Horace Mann.) The teacher or prudential committee may expel for gross immorality, although it is practiced entirely outside the school. The influence upon the school makes the rule necessary, 8 Cush. 160.

2. *Suspension.* — With reference to this topic we call attention to what has already been said concerning suspension in connection with expulsion and school regulations. The principal difference in the application of these methods of discipline is this: The teacher has not the power to expel but rather may suspend awaiting the action of the committee. If he does expel it is subject to the revision of the committee and, as it may sometimes happen that the committee will not favor the act, it is much better to suspend for the time being, or till certain conditions have been complied with. Suspension is, therefore, a conditional punishment while expulsion leaves no opportunity for compromise.

3. *Corporal Punishment.* — As has been said, the general principle of law with reference to punishment is that the teacher, for purposes of government of the school, stands *in loco parentis;* but this rule should be taken with caution, according to the later decisions. A parent's punishment will usually be considered not excessive, if there is no malice, the parental affection being considered sufficient to prevent excess. Judge Aldis, in Lauder *v.* Seaver, 32 Vt. 114, says with reference to this question: "The parent, unquestionably, is answerable only for malice or wicked motives or an evil heart in punishing his child. The great and to some extent irresponsible power of control and correction is invested in the parent by nature and necessity. It springs from the natural relation of parent and child, and is felt rather as a duty than a power. * * * * This parental power is little liable to abuse, for it is continually restrained by natural affection, the tenderness which the parent feels for his offspring, an affection ever on the alert, and acting rather by instinct than reasoning.

"The schoolmaster has no such natural restraint. Hence he may not safely be trusted with all a parent's authority, for he does not act from the instinct of parental affection. He should be guided and restrained by judgment and wise discretion, and hence is responsible for their reasonable exercise." Blackstone says: "The master is *in loco parentis*, and

has such a *portion* of the powers of a parent committed to his charge as may be necessary to answer the purposes for which he is employed." This power must be temperately exercised, and no schoolmaster should feel himself at liberty to punish coextensive with the parent. Judge Swift, in his digest, in a very admirable summary of the powers and duties of a schoolmaster, remarks that, "if the punishment is immoderate, so that the child sustain a material injury, the master is liable in damages." Royce, Ch. J., in Hathaway *v.* Rich, 19 Vt. 102, says in the course of his opinion that, "the right of a schoolmaster to correct his scholars has always been practically and judicially sanctioned, but it rests upon similar grounds as the rights to correct a child, or servant, and the chastisement must not exceed the limits of moderate correction. Though the courts are bound, with a view to the maintenance of necessary order and decorum in schools, to look with all reasonable indulgence upon the exercise of the right, yet, whenever the correction, as confessed by the pleadings, or as proved on trial, shall appear to have been clearly excessive and cruel, it must be adjudged illegal." Judge Aldis summed up the law to be as follows: "A schoolmaster has the right to inflict reasonable corporal punishment. He must exercise reasonable judgment and discretion in determining when to punish and to what extent. In determining upon what is a reasona-

ble punishment, various considerations must be regarded, the nature of the offence, the apparent motive and disposition of the offender, the influence of his example and conduct upon others and the sex, age, size and strength of the pupil to be punished. Among reasonable persons much difference prevails as to the circumstances that will justify the infliction of punishment, and the extent to which it may properly be administered. On account of this difference of opinion, and the difficulty that exists in determining what is a reasonable punishment, and the advantage the master has of being on the spot to know all the circumstances,—the manner, look, tone, gesture and language of the offender (which are not always easily described) and thus to form a correct opinion as to the necessity and extent of the punishment, considerable allowance should be made to the teacher by the way of protecting him in the exercise of his discretion. Especially should he have this indulgence when he appears to have acted from good motives and not from anger or malice. Hence the teacher is not to be *held* liable on the ground of excess of punishment, unless the punishment is *clearly* excessive, and would be considered so in the general judgment of reasonable men. * * * If there is any reasonable doubt whether the punishment was excessive, the master should have the benefit of the doubt." In the same case it was decided that whether a raw hide would be a suitable

instrument for punishment will depend upon the custom of the surrounding territory. Temporary pain would not be considered immoderate, while any punishment that endangered life, limb, or health of the pupil, or caused lasting mischief, would be illegal. It is not the infliction of punishment that constitutes the offence, but the excess; and the question of excess is a question for the jury.

The right to inflict corporal punishment is a personal right and cannot be delegated to anyone else. As the teacher is *in loco parentis* by virtue of his position, he cannot be allowed to call in a third person to enforce observance to rules made by virtue of that right. The right of the teacher to call upon the committee to assist in punishment has never been settled in this state, but it was held in State *v.* Williams, 27 Vt. 755, that a teacher could call upon the committee, or upon anyone else, as her agent to expel a pupil from the school, if she was not able to do it herself. The reasonable conclusion would be, however, that the teacher would not have the freedom of choice in respect to corporal punishment. Expulsion is the last resort; and if the pupil resists and the teacher is not strong enough to compel him to leave the school, the punishment would fail if she could not call some one to her aid. But in case of corporal punishment, if the teacher cannot punish, she still has the final resort of suspension or expulsion. 27 Vt. 755.

Teachers of private schools have all the rights belonging to teachers of public schools so far as discipline is concerned. Although the statute does not give them this power, it is implied from the fact that the parents voluntarily place their pupils under the teacher's care. In the case of the public schools, this surrender of right is in a measure compulsory.

In a word, to sum up the subject of corporal punishment. The law requires the teacher to give a *reasonable* kind and amount of punishment for the breach of a *reasonable* rule. Some careful thought should be given to this matter by every teacher. No punishment should be administered in anger. It requires the best judgment of a sober, candid-minded man, and no one in a fit of anger can attain to that degree of reason.

CHAPTER IX.

TOWN SYSTEM OF SCHOOLS.

1. Town System of Schools.—2. Abolishment of Town System.—3. Public Money and its Division.

There are two general systems of schools recognized by the laws of the state. The schools are managed, for the most part, on the district plan; therefore, in the preceding pages,

our discussion has been based upon that supposition. Some few towns continue to use the town system, while others are just returning to the district system under the statute providing for abolishing the town schools. This fact leads us to devote a few pages to the consideration of this feature of our public schools.

So far as the general conduct of our schools is concerned, there is no difference between the two systems. The dissimilarity consists wholly in the manner of supporting and overseeing the schools. The decisions on questions under the town system are meagre, which fact will compel us to confine our study to an examination of the statutes. The statutory provisions may be found in chapter 6 of the school law. When a town adopts the town system of schools, the authority of the school district is, for the time, suspended; but such corporate rights as are laid aside will revive again on the return to the district plan (143). For all practical purposes, the districts are abolished by the vote adopting the town schools,—the school district corporation ceases to exist, except in name; the property of the school district becomes the property of the town; and the management of the schools is transferred from the prudential committee to the school directors elected by the town. The tax to support the schools is assessed as a town tax, is collected by the town collector and deposited with the town treasurer. The town, at its

annual meeting, elects or fills vacancies in a board of school directors, who hold their office subject to the same rules as the prudential committee of three persons (73). The board of school directors has entire control of all matters pertaining to the schools not conflicting with the duties of the supervisor. They appoint some one, not a member of the board, as clerk, who performs the duties of a recording officer.

Section 136 provides that a sum not exceeding 50 cents nor less than 25 cents on the dollar of the grand list shall be annually appropriated by the selectmen for the use of the schools, and a tax bill shall be made by them to defray such appropriations. The school directors may, in the performance of their duties, draw orders upon the town treasurer to pay the expenses of the schools, which sum cannot exceed 50 cents on the dollar of the grand list. It is the duty of the treasurer to keep a separate account of moneys appropriated or given for the use of the schools (137). The location, construction and sale of schoolhouses is under the control of the board of school directors (138).

The provisions of the chapter touching the subject of town system do not extend to or affect the rights and privileges of a graded school district incorporated by an act of the legislature, unless accepted by a two-thirds vote of the district. For the same reason, the inhabitants of such a district are disqualified for

voting upon the question of adopting or abolishing the town system, or for the election of school officers in the town, providing they have not previously voted to adopt the town system (139). The provisions of the law relating to town system do not extend to a fractional district, without the concurring vote of each of the towns consenting thereto. As has been seen in considering the organization of school districts, a concurrent vote is necessary to the change of the relations existing between the inhabitants of a fractional district..

ABOLISHMENT OF THE TOWN SYSTEM.

By Sec. 142 provision has been made for abolishing the town system. Towns having the town system might have at their annual meeting in March, 1889, and may at any fifth annual meeting thereafter, abolish the town schools by a vote of a majority of the legal voters present. It is the duty of the selectmen to insert a notice in the warning of every fifth annual meeting after 1889 upon application in writing of ten legal voters in such town. Under the present law (acts of 1888), towns cannot abolish their district system with the purpose of adopting the town school. Upon abolishing the town system, the same condition of affairs revives as existed before the adoption of that system. "The town shall be divided into the same number of school districts, with the same limits and boundaries, and the dis-

tricts shall be designated by the same numbers, and shall have the same powers and be subject to the same duties and liabilities as before they were abolished by said town" (143). Schoolhouses and all other school property shall be restored to the several districts from which such property was taken; and if improvements have been made to the advantage of some districts, such districts shall pay to the others such sums as will equalize the division of the property (145). For the method of determining such equalization, see sections 146–148 inclusive. Sec. 149 provides for the election of school district officers after the abolishment of the town system. As has been said, the school district corporation is not abolished by the adoption of the town system; for the school districts do not require reorganization upon return to the district system. With the abolishment of the town schools comes the revival of the old corporation with all its privileges and duties. Such districts, however, have no officers to manage their affairs. To provide for a lawful election of officers, the town at the meeting abolishing the town system shall elect a clerk for each school district, who shall be a voter in such district. It is his duty to call a meeting of the school district, which cannot be held until the last Tuesday in June, at which meeting all the officers of the district for the ensuing year may be elected. Under the present law, the clerk above mentioned would be

the only officer in the district from the town meeting in March till the school district meeting in June. This is an unfortunate circumstance, as it prevents the districts from supporting the usual spring term of school, and will probably be the subject of amendment in the near future.

3. Public Money and Its Division.—The public money subject to division under Sections 233–244 consists of 1st, The United States Deposit Money; 2d, The Huntington Fund; 3d, The Town School Fund; 4th The Town School Taxes.

United States Deposit Money.—This part of the public money is the income, at six per cent, of a large sum of money which was apportioned to the state of Vermont as its share of the surplus in the treasury of the United States, distributed among the several states during President Jackson's administration. Vermont, through the legislature, devoted the income of her share to the support of the public schools, and apportioned the whole sum to the several towns, in proportion to the population of each, to be held in trust for that purpose (211). In case the towns do not wish to use the sum thus placed at their disposal, it is held by the state in trust for the towns, or is placed in the hands of trustees elected by the towns to superintend the investment. The sum thus divided among the towns amounts

to about $675,000, the income only of which can be used. At each census a new apportionment is made among the towns, and the principal is subject to recall at any time by the national government (219). Sec. 218 provides that if a town has other funds sufficient to support schools for six months in a year in all the districts of the town, such town may appropriate the income received from its share of the fund to the support of schools or *to any other purpose.*

Huntington Fund.— This fund amounts, according to the State Treasurer's report for 1887–8, to $209,728.76, the income of which at six per cent is to be appropriated for school purposes. This large fund was a bequest to the state of Vermont from Arunah Huntington, a native of the state, but a resident of Brantford, Province of Ontario. By the terms of the will, this handsome bequest was placed at the disposal of the state; and in 1884, the legislature passed an act devoting the income of such fund to the public schools, to be apportioned in the same way as the United States deposit money (No. 230 of the Acts of 1884). Sec. 3 of this act provides in regard to the income of the Huntington fund that "no school which has not maintained twenty-four weeks of schooling in the preceding school year, shall be entitled to receive any share of this fund." Also, that "the amount received by a town under the provision of this act (from the Hunt-

ington fund) shall not be taken into consideration when estimating the amount of the state school tax required to be raised under the provisions of section 228."

Town School Fund.— This fund consists of land set apart for school purposes, at the organization of the towns, together with all real estate and personal property given by individuals for school use. Nearly every town in the state has several lots of land, and some have also private bequests, the rents and income of which are devoted to the support of the public schools. The selectmen are trustees of such funds if no other trustees are chosen (223); but No. 11, Acts of 1888, provides for the election of three trustees of public funds, who shall have the management or renting of such town school funds, not including the United States deposit money. Such trustees may be elected by the town at any annual or special meeting. The trustee first chosen holds his office for three years, the next one chosen for two years, and the last one for one year next following their election. These trustees are required to give bonds for the faithful discharge of their trust.

Town School Taxes.— Sec. 227 provides that "a town *may*, at an annual meeting, or at a meeting warned for that purpose, raise money for the use of schools, by a tax on the list of such town." The town is *obliged* to raise such a tax if the school funds fall short of the twelve

per cent required by section 228. Towns that have borrowed the United States deposit money will be obliged to raise a tax equal to six per cent of such loan. If in any year the income appropriated for the use of schools in a town, first having deducted the income of the Huntington fund and one-half of the income from the deposit money, amounts to a less sum than twelve cents on the dollar of the grand list of the town, the selectmen shall, on or before the first day of July, draw an order on the town treasurer for such amount as such sum is less than twelve per cent, for the use of schools in such town (228). For penalty in case of failure to perform the requirements of this section, see Secs 229 and 230. We append an example to explain the questions of this topic. Suppose the town of A has a grand list of $6250, and that the income from the several funds is as follows: United States deposit money, $475.50; Huntington fund, $160; Town School fund, $60. The town must appropriate a sum equivalent to twelve per cent of its grand list, or $630. The funds available to pay such sum are one-half the deposit money, $237.75, and the Town School funds, $60, making a total of $297.75. To make up the deficiency, an order for $332.25 must be drawn by the selectmen. The public money to be divided that year would be:

United States Deposit Fund,	$475 50
Huntington " "	160 00
Town School "	60 00
" " Taxes,	332 25
Total,	$1027 75

DIVISION OF THE PUBLIC MONEY.

The selectmen shall annually, between the third and sixth days of July, divide the school moneys in the treasury of such town among the school districts, which money shall be paid over to the treasurers of the several districts (233). Secs 234 and 235 form a rule for dividing the school moneys which is easily understood. In order to entitle a district to any share of the public money, it must have maintained during the year at least twenty-four weeks of school kept by duly licensed teachers, the register must contain the certificate of the prudential committee as to date and character of the teacher's certificate and must be properly made out by the district clerk. No district shall receive the *full* amount of its school moneys unless it has actually expended during the preceding school year for school purposes other than the construction and repair of buildings, ten per cent of the grand list of the district besides the share of public money apportioned to such district. However, if a district has an income from *private* bequests, such income may be deducted from the per cent otherwise required. The amount of public money dis-

tributed to a district that shall fail to raise the required per cent shall be determined by deducting from the share otherwise due a sum equal to the deficiency of the preceding year. The amount thus withheld from the district shall be divided among the other districts according to attendance. In case the delinquent district is fractional, see Sec. 239.

A graded school district, formed of two or more original districts, receives the same amount of the part divided equally among the districts as the separate districts would have received. If in any town there is a *part* of a fractional district, such part of the district shall share of the part divided equally such a fractional part of one district's share as the number of children residing in such town and fractional district bears to the whole number of children in the district. For example, in a town there were eleven whole districts and a part of a fractional district. Two-fifths of the children of the fractional district resided in such town. To find the share of the part divided equally belonging to a *whole* district, divide the sum to be shared by eleven and two-fifths. Two-fifths of this sum will be the share belonging to the fractional district. To divide the share apportioned according to attendance, find the total attendance of all the scholars in the town, and apportion the sum to be divided as the total attendance of the town is to the total

attendance of the district or the part of the fractional district in such town.

A school district may arrange for the instruction of its pupils in an adjoining district; and if the pupils have been provided with not less than twenty-four weeks of school, the district shall be entitled to its share of the public money the same as if a school had been maintained in the district (107, 108, 109).

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